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SALUS POPULI SUPREMA LEX ESTO

*"The welfare of the people shall be the supreme law."*



ROBIN CARNAHAN  
SECRETARY OF STATE

MISSOURI  
REGISTER

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## HOW TO CITE RULES AND RSMo

**RULES**—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation , i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

**RSMo**—The most recent version of the statute containing the section number and the date.

**R**ules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety, or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons, and findings which support its conclusion that there is an immediate danger to the public health, safety, or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

**R**ules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

**A**ll emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
Statutory Jurisdiction**

**EMERGENCY AMENDMENT**

**1 CSR 15-3.350 Complaints.** The commission is amending section (2).

*PURPOSE:* This amendment informs state employees how to appeal certain adverse employment actions formerly adjudicated by the Personnel Advisory Board.

*EMERGENCY STATEMENT:* HB 1868, signed into law on June 30, 2010, became effective August 28, 2010. Effective that date, jurisdiction of employment-related cases formerly handled by the Personnel Advisory Board is transferred to the Administrative Hearing Commission (commission). This emergency amendment is necessary to inform the approximately thirty-eight thousand (38,000) state employees who have previously had appeal rights to the Personnel Advisory Board that the commission's rules will apply to these cases and to ensure that the commission's procedures are fair to all affected employees who may wish to appeal adverse employment actions. This rule will inform state employees how to exercise their right to appeal and the statutory grounds for such appeal. If these rules do not go into effect on an emergency basis, persons who wish to file employment-related appeals will not know where and how to file them

properly and may lose appeal rights as a consequence. As a result, the Administrative Hearing Commission finds a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Administrative Hearing Commission believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 30, 2010, becomes effective September 9, 2010, and expires March 7, 2011.

(2) Specific Cases. In addition to the other requirements of this rule—

(E) In a case arising pursuant to section 36.280, 36.370, 36.380, or 36.390, RSMo, the petition shall include a copy of any notice of the action of which the employee seeks review and shall state—

1. The action being appealed; and

2. In the case of a dismissal, suspension for greater than five (5) days, or demotion, the reason the employee alleges that the dismissal, suspension, or demotion was—

A. For political reasons;

B. For religious reasons;

C. For racial reasons; or

D. Not for the good of the service.

The petitioner may, but is not required to, utilize a form provided by the commission for purposes of appeals covered by this subsection.

*AUTHORITY:* section 621.035, RSMo 2000 and sections 621.053 and 621.198, RSMo Supp. [2007] 2009. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
Statutory Jurisdiction**

**EMERGENCY AMENDMENT**

**1 CSR 15-3.380 Answers and Other Responsive Pleadings.** The commission is amending section (1) and subsection (7)(B).

*PURPOSE:* This amendment provides that answers shall not be required in employment-related cases arising pursuant to section 36.280, 36.370, 36.380, or 36.390, RSMo, unless so ordered. This is different from all other cases in front of the Administrative Hearing Commission. It also provides for expedited handling of certain pretrial motions.

*EMERGENCY STATEMENT:* HB 1868, signed into law on June 30, 2010, became effective August 28, 2010. Effective that date, jurisdiction of employment-related cases formerly handled by the Personnel Advisory Board is transferred to the Administrative Hearing Commission. This emergency amendment is necessary to inform the parties to these cases—approximately four hundred (400) per year—that an answer may not be required, unlike all other cases before the Administrative Hearing Commission. This will allow the commission to decide these cases more quickly. As a result, the Administrative

Hearing Commission finds a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Administrative Hearing Commission believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 30, 2010, becomes effective September 9, 2010, and expires March 7, 2011.

(1) The respondent shall file an answer in all cases except those arising pursuant to sections 36.280, 36.370, 36.380, and 36.390, RSMo, in which case respondent may, but is not required to, file an answer, unless the commission orders that an answer be filed.

(7) Failure to File.

(B) Except in cases under section/s/ 36.280, 36.370, 36.380, 36.390, 407.822.1, or 407.1031.1, RSMo, petitioner shall file the motion not fewer than thirty (30) days before the hearing on the complaint or the motion shall be waived. In cases under section/s/ 407.822.1 or 407.1031.1, RSMo, petitioner shall file a motion for a remedy only with the commissioner's leave and pursuant to a schedule ordered by the commission.

*AUTHORITY: section 621.035, RSMo 2000 and section 621.198, RSMo Supp. [2007] 2009. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register.*

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
Statutory Jurisdiction**

**EMERGENCY AMENDMENT**

**1 CSR 15-3.436 Involuntary Dismissal.** The commission is amending subsection (2)(B).

*PURPOSE: This amendment provides for expedited handling of certain pretrial motions, which the commission anticipates will be needed for employment-related cases.*

*EMERGENCY STATEMENT: HB 1868, signed into law on June 30, 2010, became effective August 28, 2010. Effective that date, jurisdiction of employment-related cases formerly handled by the Personnel Advisory Board is transferred to the Administrative Hearing Commission. This emergency amendment is necessary to inform the parties to these cases—approximately four hundred (400) per year—that motions to dismiss may be filed closer to hearing than in other cases before the commission. The reason for this is that parties to these cases strongly desire that they be decided as quickly as possible. By allowing for shorter time frames, employment-related cases may be processed more quickly, minimizing disruption for the employee and possible backpay payable by the agency. As a result, the Administrative Hearing Commission finds a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Administrative Hearing Commission believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed*

*August 30, 2010, becomes effective September 9, 2010, and expires March 7, 2011.*

(2) Respondent may file a motion for involuntary dismissal on all or any part of the complaint except that, unless the commission grants leave otherwise, respondent shall not file a motion for involuntary dismissal—

(B) In any case less than forty-five (45) days before the hearing, except by leave of the commission for good cause.

*AUTHORITY: sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. [2007] 2009. Original rule filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register.*

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
Statutory Jurisdiction**

**EMERGENCY AMENDMENT**

**1 CSR 15-3.446 Decision on the Complaint without a Hearing.** The commission is amending subsection (2)(B).

*PURPOSE: This amendment provides for expedited handling of dispositive motions, which the commission anticipates will be needed for employment-related cases.*

*EMERGENCY STATEMENT: HB 1868, signed into law on June 30, 2010, became effective August 28, 2010. Effective that date, jurisdiction of employment-related cases formerly handled by the Personnel Advisory Board is transferred to the Administrative Hearing Commission. This emergency amendment is necessary to inform the parties to these cases—approximately four hundred (400) per year—that motions for summary decision may be filed closer to hearing than in other cases before the commission. The reason for this is that parties to these cases strongly desire that they be decided as quickly as possible. By allowing for shorter time frames, employment-related cases may be processed more quickly, minimizing disruption for the employee and possible backpay payable by the agency. As a result, the Administrative Hearing Commission finds a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Administrative Hearing Commission believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 30, 2010, becomes effective September 9, 2010, and expires March 7, 2011.*

(2) Any party may file a motion for a decision without hearing on all or any part of the complaint except that, unless the commission grants leave otherwise, no party shall file a motion for decision without hearing—

(B) In any case, less than forty-five (45) days before the hearing, except by leave of the commission for good cause.

*AUTHORITY: sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. [2007] 2009. Original rule filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register.*

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
Statutory Jurisdiction**

**EMERGENCY AMENDMENT**

**1 CSR 15-3.490 Hearings on Complaints; Default.** The commission is amending section (2).

*PURPOSE:* This amendment provides the method for parties to request that hearings be conducted or testimony be taken by telephone or videoconferencing, which the commission anticipates will be necessary in cases arising under sections 36.280, 36.370, 36.380, and 36.390, RSMo.

*EMERGENCY STATEMENT:* HB 1868, signed into law on June 30, 2010, became effective August 28, 2010. Effective that date, jurisdiction of employment-related cases formerly handled by the Personnel Advisory Board is transferred to the Administrative Hearing Commission. This emergency amendment is necessary to inform the parties to these cases—approximately four hundred (400) per year—that hearings may be conducted, or testimony be taken, by telephone or videoconferencing equipment. By allowing for this, the compelling governmental interest of conducting a hearing, motions, or pretrial conferences more quickly and inexpensively may be achieved. Agencies that have many witnesses in remote locations, for example, will be able to present those witnesses at hearings without undue expense or disruption to their operations. As a result, the Administrative Hearing Commission finds a compelling governmental interest, which requires this emergency action. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Administrative Hearing Commission believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 30, 2010, becomes effective September 9, 2010, and expires March 7, 2011.

(2) [Location. The commission will hold all hearings in Jefferson City, Missouri, except as otherwise provided by statute or when one (1) of the parties shows good cause to hold the hearing elsewhere within the state.] **Use of Telephone or Videoconferencing Equipment.** Any party may, for good cause, request in writing that the hearing be conducted or certain testimony taken by telephone or videoconferencing equipment.

*AUTHORITY:* sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. [2007] 2009. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 1—OFFICE OF ADMINISTRATION  
Division 20—Personnel Advisory Board and Division of  
Personnel  
Chapter 1—Organization and Operation**

**EMERGENCY AMENDMENT**

**1 CSR 20-1.010 General Organization.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in section (2).

*PURPOSE:* This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

*EMERGENCY STATEMENT:* This amendment changes the forum for certain appeals of personnel actions afforded to state employees and applicants for state employment. CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly (2010) transferred the authority to hear these appeals from the Personnel Advisory Board to the Administrative Hearing Commission effective August 28, 2010, making this rule inconsistent with the authorizing statutes. The bill also changed the deadlines for filing appeals of certain actions of the director of the Division of Personnel. This emergency amendment is therefore necessary to preserve the compelling governmental interest in providing employees due process when they are aggrieved by a decision of an appointing authority or a decision of the director of the Division of Personnel for which the statutes provide a hearing. Allowing this rule to remain unchanged and inconsistent with the statutory enactment for the duration of the rulemaking process under Chapter 536, RSMo, would create confusion and possibly direct employees to the wrong agency, potentially causing those employees to miss the statutory deadline for filing appeals with the Administrative Hearing Commission thereby being denied due process. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*, and the Personnel Advisory Board will conduct a hearing on that rulemaking on November 9, 2010, at which it will consider any public comments. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 27, 2010, becomes effective September 7, 2010, and expires March 5, 2011.

(2) Personnel Advisory Board. Within the Division of Personnel is the Personnel Advisory Board consisting of seven (7) members who are nominated by the commissioner of administration and appointed by the governor with the advice and consent of the senate. Four (4) members of the board shall be public members, citizens of the state who are not state employees or officials, of good character and reputation, who are known to be in sympathy with the application of merit principles to public employment. Two (2) members shall be employees of either a merit agency or an agency covered by uniform classification and pay, one (1) a member of executive management, and one (1) a non-management employee. [Members who are employees shall not participate in disciplinary appeal decisions from their agencies.] The state equal employment opportunity officer shall be a member of the board. No member of the board, during his/her term of office, or for at least one (1) year prior to that, shall be a member of any local, state, or national committee of a political party or an officer or member of a committee in any partisan political club or organization[,] or hold, or be a candidate for, a partisan public office. An employee member who leaves state employment or otherwise fails to further qualify for the appointment shall vacate the position. The Personnel Advisory Board prescribes rules[,] and approves classification and pay plans prepared by the Division of Personnel [and conducts appeal hearings for examination applicants and employees in agencies subject to the State Personnel Law]. In addition to these and other duties imposed upon the board by law and elsewhere in these rules, it is also the duty of the board to—

*AUTHORITY:* section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult



the *Code of State Regulations*. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of**  
**Personnel**  
**Chapter 1—Organization and Operation**  
**EMERGENCY AMENDMENT**

**1 CSR 20-1.030 Personnel Rules.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in section (1).

*PURPOSE:* This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

*EMERGENCY STATEMENT:* This amendment changes the forum for certain appeals of personnel actions afforded to state employees and applicants for state employment. CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly (2010) transferred the authority to hear these appeals from the Personnel Advisory Board to the Administrative Hearing Commission effective August 28, 2010, making this rule inconsistent with the authorizing statutes. The bill also changed the deadlines for filing appeals of certain actions of the director of the Division of Personnel. This emergency amendment is therefore necessary to preserve the compelling governmental interest in providing employees due process when they are aggrieved by a decision of an appointing authority or a decision of the director of the Division of Personnel for which the statutes provide a hearing. Allowing this rule to remain unchanged and inconsistent with the statutory enactment for the duration of the rulemaking process under Chapter 536, RSMo, would create confusion and possibly direct employees to the wrong agency, potentially causing those employees to miss the statutory deadline for filing appeals with the Administrative Hearing Commission thereby being denied due process. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*, and the Personnel Advisory Board will conduct a hearing on that rulemaking on November 9, 2010, at which it will consider any public comments. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 27, 2010, becomes effective September 7, 2010, and expires March 5, 2011.

(1) These rules give effect to the provisions of the State Personnel Law. The rules shall be applied in accordance with the purposes of the law, which are interpreted and declared to be as follows:

(C) To establish for affected employees, rules governing hours of work, holidays, and leaves of absence, as provided for in section 36.350, RSMo; and

((D)) To establish rules for the appeal of specified personnel actions to the Personnel Advisory Board, pursuant to section 36.390, RSMo; and/

((E))((D)) To promote effective and efficient personnel management practices in state government and to aid all state agencies in personnel matters.

*AUTHORITY:* section 36.070, RSMo [1986] 2000. Original rule

filed July 9, 1947, effective July 19, 1947. Amended: Filed Dec. 8, 1975, effective Dec. 19, 1975. Amended: Filed Feb. 25, 1992, effective Aug. 6, 1992. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of**  
**Personnel**  
**Chapter 2—Classification and Pay Plans**  
**EMERGENCY AMENDMENT**

**1 CSR 20-2.015 Broad Classification Bands for Managers.** The Personnel Advisory Board is deleting a reference to its authority to conduct hearings in subparagraph (3)(B)2.D.

*PURPOSE:* This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

*EMERGENCY STATEMENT:* This amendment changes the forum for certain appeals of personnel actions afforded to state employees and applicants for state employment. CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly (2010) transferred the authority to hear these appeals from the Personnel Advisory Board to the Administrative Hearing Commission effective August 28, 2010, making this rule inconsistent with the authorizing statutes. The bill also changed the deadlines for filing appeals of certain actions of the director of the Division of Personnel. This emergency amendment is therefore necessary to preserve the compelling governmental interest in providing employees due process when they are aggrieved by a decision of an appointing authority or a decision of the director of the Division of Personnel for which the statutes provide a hearing. Allowing this rule to remain unchanged and inconsistent with the statutory enactment for the duration of the rulemaking process under Chapter 536, RSMo, would create confusion and possibly direct employees to the wrong agency, potentially causing those employees to miss the statutory deadline for filing appeals with the Administrative Hearing Commission thereby being denied due process. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*, and the Personnel Advisory Board will conduct a hearing on that rulemaking on November 9, 2010, at which it will consider any public comments. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 27, 2010, becomes effective September 7, 2010, and expires March 5, 2011.

(3) Compensation Structure. The director will recommend to the board establishment and adoption of pay bands as considered necessary and equitable in order to group and maintain positions with similar levels of management responsibility or expertise. The provisions of 1 CSR 20-2.020 The Pay Plan[, ] are applicable in the preparation, adoption, maintenance, and administration of the pay plan for broad classification bands, except as specifically outlined in this section[, ] or necessary for implementation.

(B) Administration. The implementation and ongoing administration of pay within the broad classification bands shall be conducted in a manner which promotes equitable pay relationships and the efficient



and effective practice of personnel administration. When the meaning and purpose of a rule is not otherwise affected, the term band may replace range. Appointing authorities shall have a responsibility to exercise the discretion included in these rules in a manner which avoids inconsistent, arbitrary, or discriminatory pay actions. The pay plan for the broadbanded system shall be administered in accordance with 1 CSR 20-2.020 and the following provisions:

1. Appointment rate. The initial appointment rate to a position in a broad classification band is at the discretion of the appointing authority. In making these determinations, consideration should be given to the individual's qualifications, permanent position-related factors, such as working conditions or physical location of work, and/or recruitment or staffing needs. The proposed rate of pay should not exceed that which is being paid to present employees with comparable qualifications in similar position-related circumstances;

2. Salary advancements. Salary advancements within the band occupied by an employee are of three (3) types: probationary salary advancements, specific salary advancements authorized during a fiscal year, and discretionary salary advancements, administered in accordance with the following provisions:

A. A probationary salary advancement is authorized for an employee upon successful completion of the initial probationary period. An appointing authority may grant a salary advancement following successful completion of a probationary period in a higher level band or after an appropriate period of time following upward reclassification;

B. Within-grade, market progression, or other specific salary advancements within the pay bands, which are only authorized during a fiscal year when specific funding has been appropriated for all agencies, will be implemented in accordance with guidelines and instructions issued by the board;

C. Discretionary salary advancements may be granted by an appointing authority as warranted by the needs of the service. For classified positions in the broadbanded service, discretionary salary advancements cannot be given during a probationary period, unless approved by the director of the Division of Personnel in cases where it does not affect competitive appointments that would compromise the selection group as enumerated in 1 CSR 20-3.030(3)(A); and

D. In the broadbanded management service, a conditional salary advancement is a discretionary within-band advancement associated with the assignment of higher level duties or responsibilities of a permanent nature. At the discretion of the appointing authority, and without appeal to the [Personnel Advisory Board] **Administrative Hearing Commission**, such higher level duties and responsibilities and the associated conditional salary advancement may be withdrawn within a period of time not to exceed twenty-four (24) months as specified by the appointing authority. When a conditional salary advancement is established, the appointing authority will provide the affected employee with written notice describing the conditions under which the advancement is given[,] and the time frame during which it can be withdrawn.

*AUTHORITY: section 36.070, RSMo 2000. Original rule filed March 11, 1999, effective Sept. 30, 1999. Emergency amendment filed Jan. 2, 2003, effective Jan. 12, 2003, expired July 10, 2003. Amended: Filed Jan. 15, 2003, effective June 30, 2003. Amended: Filed Aug. 15, 2003, effective Feb. 29, 2004. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register.*

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 3—Personnel Selection, Appointment, Evaluation and Separation**

**EMERGENCY AMENDMENT**

**1 CSR 20-3.010 Examinations.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in section (5).

*PURPOSE: This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.*

*EMERGENCY STATEMENT: This amendment changes the forum for certain appeals of personnel actions afforded to state employees and applicants for state employment. CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly (2010) transferred the authority to hear these appeals from the Personnel Advisory Board to the Administrative Hearing Commission effective August 28, 2010, making this rule inconsistent with the authorizing statutes. The bill also changed the deadlines for filing appeals of certain actions of the director of the Division of Personnel. This emergency amendment is therefore necessary to preserve the compelling governmental interest in providing employees due process when they are aggrieved by a decision of an appointing authority or a decision of the director of the Division of Personnel for which the statutes provide a hearing. Allowing this rule to remain unchanged and inconsistent with the statutory enactment for the duration of the rulemaking process under Chapter 536, RSMo, would create confusion and possibly direct employees to the wrong agency, potentially causing those employees to miss the statutory deadline for filing appeals with the Administrative Hearing Commission thereby being denied due process. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register, and the Personnel Advisory Board will conduct a hearing on that rulemaking on November 9, 2010, at which it will consider any public comments. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 27, 2010, becomes effective September 7, 2010, and expires March 5, 2011.*

(5) Disqualification of Applicants. The director may reject the application of any person for admission to examination, strike the name of any person from a register, refuse to certify the name of any person, or withdraw the certification of a person if the director finds that the person lacks any of the qualifications; or has been convicted of a crime which brings into question the qualifications of that person; or has been dismissed from the public service for delinquency; or has made a false statement of a material fact; or has practiced or attempted to practice any fraud or deception in application or examination or in attempting to secure appointment. Whenever the director disqualifies an applicant, the director shall furnish the applicant a notice of disqualification. In the case of disqualification, an appeal may be taken to the [board in accordance with 1 CSR 20-4.010(1)(A)] **Administrative Hearing Commission**.

*AUTHORITY: section[s] 36.060, CCS for SCS for HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010 and section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register.*

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of**  
**Personnel**  
**Chapter 3—Personnel Selection, Appointment,**  
**Evaluation and Separation**

**EMERGENCY AMENDMENT**

**1 CSR 20-3.020 Registers.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in section (8).

*PURPOSE:* This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

*EMERGENCY STATEMENT:* This amendment changes the forum for certain appeals of personnel actions afforded to state employees and applicants for state employment. CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly (2010) transferred the authority to hear these appeals from the Personnel Advisory Board to the Administrative Hearing Commission effective August 28, 2010, making this rule inconsistent with the authorizing statutes. The bill also changed the deadlines for filing appeals of certain actions of the director of the Division of Personnel. This emergency amendment is therefore necessary to preserve the compelling governmental interest in providing employees due process when they are aggrieved by a decision of an appointing authority or a decision of the director of the Division of Personnel for which the statutes provide a hearing. Allowing this rule to remain unchanged and inconsistent with the statutory enactment for the duration of the rulemaking process under Chapter 536, RSMo, would create confusion and possibly direct employees to the wrong agency, potentially causing those employees to miss the statutory deadline for filing appeals with the Administrative Hearing Commission thereby being denied due process. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*, and the Personnel Advisory Board will conduct a hearing on that rulemaking on November 9, 2010, at which it will consider any public comments. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 27, 2010, becomes effective September 7, 2010, and expires March 5, 2011.

(8) Restoration of Names to Registers. An eligible whose name is removed from a register as provided previously may make a written request to the director for restoration of his/her name to the register for the duration of the register. This request shall set forth the reasons for the conduct resulting in removal of the name from the list and shall further specify the reasons advanced for restoration of the name to the register. The director, after full consideration of the request, may restore the name to the register or may refuse the request. The eligible shall be notified of the director's action and may make a written appeal to the [board] **Administrative Hearing Commission** to review the director's action. A former employee reinstated or reemployed in the state service shall have his/her name restored to any existing promotional register from which it was removed because of separation from the state service, provided the director approves the employee's written application for this action. A probationary or permanent employee whose name has been removed from a divisional promotional register by transfer or original appointment with probationary or permanent status under a new appointing authority may have his/her name placed on the divisional promo-

tional register for the same class in the new division, provided written application, made by the employee during the duration of the register from which the name was removed, is approved by the new appointing authority and the director.

*AUTHORITY:* section[s] 36.060, CCS for SCS for HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010 and section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of**  
**Personnel**  
**Chapter 3—Personnel Selection, Appointment,**  
**Evaluation and Separation**

**EMERGENCY AMENDMENT**

**1 CSR 20-3.030 Certification and Appointment.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in subsection (5)(B).

*PURPOSE:* This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

*EMERGENCY STATEMENT:* This amendment changes the forum for certain appeals of personnel actions afforded to state employees and applicants for state employment. CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly (2010) transferred the authority to hear these appeals from the Personnel Advisory Board to the Administrative Hearing Commission effective August 28, 2010, making this rule inconsistent with the authorizing statutes. The bill also changed the deadlines for filing appeals of certain actions of the director of the Division of Personnel. This emergency amendment is therefore necessary to preserve the compelling governmental interest in providing employees due process when they are aggrieved by a decision of an appointing authority or a decision of the director of the Division of Personnel for which the statutes provide a hearing. Allowing this rule to remain unchanged and inconsistent with the statutory enactment for the duration of the rulemaking process under Chapter 536, RSMo, would create confusion and possibly direct employees to the wrong agency, potentially causing those employees to miss the statutory deadline for filing appeals with the Administrative Hearing Commission thereby being denied due process. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*, and the Personnel Advisory Board will conduct a hearing on that rulemaking on November 9, 2010, at which it will consider any public comments. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 27, 2010, becomes effective September 7, 2010, and expires March 5, 2011.

(5) Transfers. An appointing authority at any time may assign an employee from one (1) position to another position in the same class in the same division except that transfers of employees made because

of a layoff or shortage of work or funds which might require a layoff shall be governed by 1 CSR 20-3.070 and the layoff procedures adopted. Upon making this assignment, the appointing authority immediately shall give written notice of the action to the director. A transfer of an employee from a position in one (1) division in the classified service to a position in the same class in another division in the classified service may be made with the approval of the director and of the appointing authorities of both divisions.

(B) Any change of an employee from a position in one (1) class to a position in a class of lower rank shall be considered a demotion and shall be made only in accordance with the procedure provided in 1 CSR 20-3.070(4). An employee demoted shall have the right of appeal to the [board in accordance with the provisions of the law and 1 CSR 20-4.010(1)(D)] **Administrative Hearing Commission**. Transfers from one (1) class to another class of comparable rank shall be subject to review and approval of the director.

*AUTHORITY: section[s] 36.060, CCS for SCS for HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010 and section 36.070, RSMo [Supp. 1995] 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register.*

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 3—Personnel Selection, Appointment, Evaluation and Separation**

**EMERGENCY AMENDMENT**

**1 CSR 20-3.070 Separation, Suspension, and Demotion.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in sections (3), (4), and (5).

*PURPOSE: This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.*

*EMERGENCY STATEMENT: This amendment changes the forum for certain appeals of personnel actions afforded to state employees and applicants for state employment. CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly (2010) transferred the authority to hear these appeals from the Personnel Advisory Board to the Administrative Hearing Commission effective August 28, 2010, making this rule inconsistent with the authorizing statutes. The bill also changed the deadlines for filing appeals of certain actions of the director of the Division of Personnel. This emergency amendment is therefore necessary to preserve the compelling governmental interest in providing employees due process when they are aggrieved by a decision of an appointing authority or a decision of the director of the Division of Personnel for which the statutes provide a hearing. Allowing this rule to remain unchanged and inconsistent with the statutory enactment for the duration of the rulemaking process under Chapter 536, RSMo, would create confusion and possibly direct employees to the wrong agency, potentially causing those employees to miss the statutory deadline for filing appeals with the Administrative Hearing Commission thereby being denied due process. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register, and the Personnel*

*Advisory Board will conduct a hearing on that rulemaking on November 9, 2010, at which it will consider any public comments. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 27, 2010, becomes effective September 7, 2010, and expires March 5, 2011.*

(3) Suspension. An appointing authority, for disciplinary purposes, may suspend without pay any employee in his/her division. A suspension may be made for a length of time as s/he considers appropriate, not exceeding twenty (20) working days in any twelve (12)-month period except that this limitation shall not apply in the event of a terminal suspension given in conjunction with a dismissal; a suspension given in connection with a criminal offense involving the use of a controlled substance; or, with the approval of the director, a suspension made pending the investigation or trial of any charges against the employee (see section 36.370, RSMo). Employees enumerated in 1 CSR 20-5.010(1)(C) and (D) and designated as exempt from the overtime requirements of the Fair Labor Standards Act[,] shall not be suspended from duty without pay for disciplinary purposes unless the said suspension is for one (1) or more full workdays.

(A) Any employee being suspended shall be furnished with a statement in writing specifically setting forth the reasons for the suspension. A copy of the statement shall be furnished to the director. No suspension of a regular employee for a period longer than five (5) workdays shall take effect unless, prior to the effective date, the appointing authority gives to the employee a written statement setting forth in substance the reason, informs the employee of appeal rights, provides the employee with a copy of the form for appeal to the [board prescribed in 1 CSR 20-4.010(3)(A)1.] **Administrative Hearing Commission**, and provides the employee with an opportunity to respond to the reason prior to the effective date. Any regular employee who is suspended for more than five (5) workdays may appeal in writing to the [board] **Administrative Hearing Commission** within thirty (30) days after the effective date thereof setting forth in substance reasons for claiming the suspension was for political, religious, or racial reasons or not for the good of the service[, as provided in 1 CSR 20-4.010(1)(D) and section 36.390, RSMo]. For the purpose of the appeal process, the effective date of a suspension will be the first day the employee is suspended without pay.

(4) Demotions. An appointing authority may demote an employee in accordance with the following:

(A) No demotion for cause of a regular employee shall take effect unless, prior to the effective date, the appointing authority gives to the employee a written statement setting forth in substance the reason, informs the employee of appeal rights, provides the employee with a copy of the form for appeal to the [board prescribed in 1 CSR 20-4.010(3)(A)1.] **Administrative Hearing Commission**, provides the employee with an opportunity to respond to the reason prior to the effective date, and files a copy of the statement of the reason with the director. Any regular employee who is involuntarily demoted for cause may appeal in writing to the [board] **Administrative Hearing Commission** within thirty (30) days after the effective date thereof setting forth in substance reasons for claiming that the demotion was for political, religious, or racial reasons or not for the good of the service[, as provided in 1 CSR 20-4.010(1)(D) of the rules and section 36.390, RSMo];

(5) Dismissals. An appointing authority may dismiss for cause any employee in his/her division occupying a position subject hereto when s/he considers the action is required in the interests of efficient administration and that the good of the service will be served.

(A) No dismissal of a regular employee shall take effect unless,

prior to the effective date, the appointing authority gives to the employee a written statement setting forth in substance the reason, informs the employee of appeal rights, provides the employee with a copy of the form for appeal to the *[board prescribed in 1 CSR 20-4.010(3)(A)1.] Administrative Hearing Commission*, provides the employee with an opportunity to respond to the reason prior to the effective date, and files a copy of the statement of the reason with the director. Any regular employee who is dismissed shall have the right to appeal in writing to the *[board] Administrative Hearing Commission* within thirty (30) days after the effective date setting forth in substance reasons for claiming the dismissal was for political, religious, or racial reasons or not for the good of the service, as provided in 1 CSR 20-4.010(1)(D) of these rules and section 36.390, RSMo.

(C) For non-merit agencies that have elected to follow the provisions for appeals for certain positions provided in section 36.390, RSMo, or have failed to adopt dismissal procedures substantially similar to those provided for merit employees, the following applies:

1. No dismissal of a non-merit employee shall take effect unless, prior to the effective date of the dismissal[:]-

A. The appointing authority gives the employee a written statement setting forth in substance why this dismissal is for the good of the service or not against the good of the service;

B. The appointing authority informs the employee of his/her appeal rights and provides the employee with a copy of the form for appeal to the *[board prescribed in 1 CSR 20-4.010(3)(A)1.] Administrative Hearing Commission*; and

C. The appointing authority files a copy of the statement with the director.

2. This regulation does not require that the appointing authority articulate "cause" or a reason for the employee's dismissal. Further, the terms "cause" and "for the good of the service" are not synonymous.

(D) Any regular non-merit employee who is dismissed from an agency that has elected to follow the provisions for appeals for certain positions provided in section 36.390, RSMo, or has failed to adopt dismissal procedures substantially similar to those provided for merit employees, shall have the right to appeal in writing within thirty (30) days after the effective date of the dismissal. *[The appeal shall set forth in substance reasons for claiming the dismissal were for political, religious, or racial reasons or not for the good of the service, as provided in section 36.390.9, RSMo.]*

(E) Any regular non-merit employee whose agency has elected to follow the provisions for appeals for certain positions provided in section 36.390, RSMo, or has failed to adopt dismissal procedures substantially similar to those provided for merit employees, has the burden of proving that his/her dismissal was for political reasons, religious reasons, racial reasons, or not for the good of the service and shall produce his/her evidence first.

(F) Any regular merit or non-merit employee who appeals to the board solely under section 105.055, RSMo has the burden of proof and shall produce his/her evidence first. Any appeal where the regular merit or non-merit employee has filed both under Chapter 36, RSMo and under section 105.055, RSMo where the burden of proof for Chapter 36, RSMo is on the appointing authority and for section 105.055, RSMo is on the appealing employee, the appointing authority shall produce his/her evidence first.]

**AUTHORITY:** section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of**  
**Personnel**  
**Chapter 3—Personnel Selection, Appointment,**  
**Evaluation and Separation**

**EMERGENCY AMENDMENT**

**1 CSR 20-3.080 General Provisions and Prohibitions.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in subsection (4)(B).

**PURPOSE:** *This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.*

**EMERGENCY STATEMENT:** *This amendment changes the forum for certain appeals of personnel actions afforded to state employees and applicants for state employment. CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly (2010) transferred the authority to hear these appeals from the Personnel Advisory Board to the Administrative Hearing Commission effective August 28, 2010, making this rule inconsistent with the authorizing statutes. The bill also changed the deadlines for filing appeals of certain actions of the director of the Division of Personnel. This emergency amendment is therefore necessary to preserve the compelling governmental interest in providing employees due process when they are aggrieved by a decision of an appointing authority or a decision of the director of the Division of Personnel for which the statutes provide a hearing. Allowing this rule to remain unchanged and inconsistent with the statutory enactment for the duration of the rulemaking process under Chapter 536, RSMo, would create confusion and possibly direct employees to the wrong agency, potentially causing those employees to miss the statutory deadline for filing appeals with the Administrative Hearing Commission thereby being denied due process. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*, and the Personnel Advisory Board will conduct a hearing on that rulemaking on November 9, 2010, at which it will consider any public comments. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 27, 2010, becomes effective September 7, 2010, and expires March 5, 2011.*

(4) Prohibition of Discrimination.

(B) In any case of alleged discrimination for which a review is not provided by the Missouri Commission on Human Rights and Chapter 213, RSMo, or by other provisions of these rules, an applicant or employee who feels adversely affected in an opportunity for employment, in his/her status as an employee, or in his/her condition of employment because of this discrimination, under this rule, may appeal to the *[Personnel Advisory Board] Administrative Hearing Commission* for a review of the alleged discriminatory action or practice. The request for this review shall be filed by the applicant or employee in writing with the *[Personnel Advisory Board] Administrative Hearing Commission* within thirty (30) calendar days after the date on which the action or practice is alleged to have occurred and shall set forth in substantial detail the particulars and other information as may be required by the *[board] Administrative Hearing Commission*. *[Following the general provisions of 1 CSR 20-4.010 and special procedures as may be required, the board shall conduct the investigation, hearing, or both, as is necessary to*

*determine whether a discriminatory action or practice has occurred. If the board finds that discrimination has occurred, it shall issue an order requiring the appointing authority or the personnel director, as the case may be, to cease and desist from this practice and to take remedial action as the board may require. If the findings of the board do not support the complaint or charge of discrimination, the board shall issue an order dismissing the appeal.]*

**AUTHORITY:** section[s] 36.060, *CCS for SCS for HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010 and section 36.070, RSMo [Supp. 1997] 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register.*

**Title 1—OFFICE OF ADMINISTRATION  
Division 20—Personnel Advisory Board and Division of  
Personnel  
Chapter 4—Appeals, Investigations, Hearings and  
Grievances**

**EMERGENCY AMENDMENT**

**1 CSR 20-4.010 Appeals.** The Personnel Advisory Board is deleting references to its authority to conduct hearings and procedures developed for hearings before the board throughout the rule.

**PURPOSE:** *This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.*

**EMERGENCY STATEMENT:** *This amendment changes the forum for certain appeals of personnel actions afforded to state employees and applicants for state employment. CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly (2010) transferred the authority to hear these appeals from the Personnel Advisory Board to the Administrative Hearing Commission effective August 28, 2010, making this rule inconsistent with the authorizing statutes. The bill also changed the deadlines for filing appeals of certain actions of the director of the Division of Personnel. This emergency amendment is therefore necessary to preserve the compelling governmental interest in providing employees due process when they are aggrieved by a decision of an appointing authority or a decision of the director of the Division of Personnel for which the statutes provide a hearing. Allowing this rule to remain unchanged and inconsistent with the statutory enactment for the duration of the rulemaking process under Chapter 536, RSMo, would create confusion and possibly direct employees to the wrong agency, potentially causing those employees to miss the statutory deadline for filing appeals with the Administrative Hearing Commission thereby being denied due process. A proposed amendment, which covers the same material, is published in this issue of the Missouri Register, and the Personnel Advisory Board will conduct a hearing on that rulemaking on November 9, 2010, at which it will consider any public comments. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 27, 2010, becomes effective September 7, 2010, and expires March 5, 2011.*

(1) Appeals of examination applicants and employees are provided under the following circumstances:

(A) Rejection of Examination Applications. An applicant whose request for admission to any examination has been rejected by the director may appeal by filing the appeal with the *[board/ Administrative Hearing Commission]* in writing within fifteen (15) days of the mailing of the notice of rejection by the director and in any event before the holding of the examination. The *[board's/ Administrative Hearing Commission's]* decision on all matters of fact shall be final. Pending consideration of the appeal, the director shall review the initial determination and shall have discretion to admit the applicant to the examination, but admission shall not constitute the assurance of a passing grade in the rating of education and experience (see section 36.390, RSMo);

(B) Appeal From Examination Ratings. Any applicant who has taken an examination and who feels that s/he has not been dealt with fairly in any phase of the examination process may request that the director review the case. This request for review of any examination must be filed in writing with the director within *[thirty (30)/ fifteen (15)]* days after the date on which notification of the results of the examination was mailed to the applicant. A candidate may appeal the decision of the director in writing to the *[board/ Administrative Hearing Commission]*. This appeal must be filed with the *[board/ Administrative Hearing Commission]* within *[thirty (30)/ fifteen (15)]* days after date on which notification of the decision of the director was mailed to the applicant. *[The board's decision with respect to any changes shall be final and shall be entered in the minutes.]* A correction in the ratings shall not affect a certification or appointment which may have already been made from the register;

(C) Appeals of Removal From Register. An eligible whose name has been removed from a register for any of the reasons specified in section 36.180 or 36.240, RSMo, may appeal to the *[board/ Administrative Hearing Commission]* for reconsideration. This appeal must be filed in writing *[at the office of the board]* with the *Administrative Hearing Commission* within *[thirty (30)/ fifteen (15)]* days after the date on which notification was mailed to the applicant. *[The director shall refer the appeal with all pertinent information to the board. The board after investigation shall make its decision which shall be recorded in the minutes and the eligible shall be notified accordingly by t/The director shall restore the eligible's name to the register if determined eligible for inclusion by the Administrative Hearing Commission; and*

(D) Appeals From Dismissal, Demotion, or Suspension. Any regular employee who is dismissed, demoted involuntarily for cause, or suspended for more than five (5) days may appeal in writing by filing the appeal with the *[board on the form prescribed in 1 CSR 20-4.010(3)(A)1.] Administrative Hearing Commission* within thirty (30) days after the effective date of the personnel action, setting forth in substance the reasons for claiming that the dismissal, suspension, or demotion was for political, religious, or racial reasons or not for the good of the service. *[Upon appeal, both the appealing employee and appointing authority whose action is reviewed shall have the right to be heard and to present evidence at a hearing which, at the request of the appealing employee, shall be public. At the hearing of the appeals, rules commonly controlling the techniques of presenting relevant, competent, and material evidence shall not apply. After the hearing and consideration of evidence for and against a suspension or demotion, the board shall approve or disapprove the action and in the event of a disapproval, the board shall order the reinstatement of the employee to the classification, pay range, and increment formerly held and payment to the employee of such salary as had been lost by reason of suspension or demotion. After the hearing and consideration of the evidence for and against a dismissal, the board shall approve or disapprove this action and may make any one (1) of the following appropriate orders:*

1. Order the reinstatement of the employee to the classification, pay range, and increment formerly held and the payment to the employee part or all of such salary as had been lost by reason of the dismissal;

2. Sustain the dismissal of the employee, unless the board finds that the dismissal was based upon political, social, or religious reasons, in which case it shall order the reinstatement of the employee to the classification, pay range, and increment formerly held and the payment to the employee of such salary as had been lost by reason of his/her dismissal; or

3. Except as provided in this rule, the board—

A. May sustain the dismissal but may order the director to recognize re-employment rights for the dismissed employee under 1 CSR 20-3.030(6) in an appropriate class(es); or

B. May take steps to effect the transfer of the employee to a comparable classification, pay range, and increment in another location, division, or department (see section 36.390, RSMo).

(2) *Authority in the Conduct of Investigations and Hearings.* In connection with the review of an appeal or for any other purpose necessary to determine the adherence to and effect of the law and these rules, the board and the director may conduct such investigations as are necessary. Any investigation involving the production of records or reports by a division shall be conducted in such manner as to cause the least possible disruption or inconvenience to the division in the conduct of its regular work. The board, each member of the board, and the director shall have power to administer oath, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by this law. Any person who shall fail to appear in response to a subpoena or to answer any question or to produce any books or papers pertinent to any such investigation or hearing or who shall knowingly give false testimony shall be guilty of a misdemeanor (see section 36.400, RSMo).

(3) *Appeals Must Be Submitted and Hearings Conducted Following the Procedures and Guides Provided in this Rule.*

(A) Appeal submission and preparation for hearing are governed by the following provisions:

1. Appeals shall be written. The appeal may be filed by fax, by mail, or by other delivery to the board's office. The written appeal must provide substantially the following information: appellant's name; appointing authority and agency; the type of disciplinary action appealed; the effective date of the disciplinary action; the appellant's reason for appealing the disciplinary action; the appellant's response to the reasons given by the appointing authority; names of witnesses to be subpoenaed if a hearing is granted; a detailed description of any books, papers, or records to be subpoenaed, along with their location, and a statement of the reasons that the items are needed for the hearing; the name, address, telephone number, and signature of the appellant's attorney, if any; and the appellant's signed acknowledgment and certification of truth for the information supplied in the written appeal;

2. The appellant may file the appeal on the form for appeal prescribed by the board. The information required for completion of that form shall be deemed sufficient to satisfy the requirement for a written appeal. The board will provide to the appellant or to the appointing authority, on request, a copy of the current form for appeal. The appointing authority shall deliver a copy of the form to an employee receiving any appealable disciplinary action. The completed form or other written appeal must be received at the

office of the board within thirty (30) days after the effective date of the disciplinary action appealed. A copy of the appellant's contentions set out in the appeal will be furnished to the appointing authority;

3. A party may file a document by—

A. Registered or certified mail. A document filed by registered or certified mail is deemed filed on the date that it is delivered to and received by the board;

B. Electronic facsimile transmission (fax). A document filed by fax is deemed filed at the time the board receives a fax of the complete document, provided that the original of the document is sent to the board and received within ten (10) business days of the fax. If a document arrives by fax after 5:00 p.m. and before 12:00 midnight or on a Saturday, Sunday, or legal holiday, it is filed on the board's next business day, unless the board orders otherwise;

(I) The time controlling when a fax arrives at the board's office is the board's fax machine's journal;

(II) The person fax filing a document bears the risk of loss in transmission, nonreceipt, or illegibility. If the document is not received or is materially illegible, the document is deemed not filed and totally null and void for all purposes;

(III) Any party or attorney who lists a fax number on a letterhead or pleading in the case file or in a telephone or professional directory or otherwise shall be deemed to have consented to receive service of documents by fax from the board or any other party or attorney; or

C. Any other method. A document filed by any method other than registered mail, certified mail, or fax is deemed filed on the date the board receives the document in its office;

4. A party filing by fax shall—

A. Notify the board in advance, if possible, of its intention to file the document by fax;

B. Fax the document to the board's dedicated fax number;

C. Fax the document, if possible, to all other parties having electronic facsimile equipment. If unable to fax, a party shall notify all other parties of its intention to file the document by fax. The notice need not be in writing. A good faith attempt at compliance with this notice requirement shall satisfy the requirements of this subparagraph. This subparagraph does not apply to fax filing of the original appeal;

D. Send the original signed document to the board;

E. Certify in the documents—

(I) The method of notice used to fulfill the requirements of subparagraph (3)(A)4.C. of this rule; and

(II) Compliance with the requirements of subparagraph (3)(A)4.D. of this rule; and

F. Send a copy of the document to all other parties except when filing the original appeal;

5. Appellants may represent themselves and handle their own cases but shall have the right to be represented by duly licensed attorneys. A party to an appeal cannot be represented by anyone other than a duly licensed attorney except that the appointing authority may appear by an employee in the agency. If either party intends to employ and be represented by an attorney, that party promptly shall notify the Personnel Advisory Board of the name and address of his/her attorney;

6. Either party may request a subpoena for a witness at a deposition or the hearing and a subpoena duces tecum (documents) for a deposition (related to the witness being deposed) or subpoena duces tecum for the hearing;

A. A subpoena duces tecum must be requested sufficiently in advance so that it can be received from the board and served by the requesting party at least thirty (30) days in advance of the deposition or the hearing. Any subpoena



*duces tecum for the hearing requested and served more than sixty (60) days in advance of the hearing shall be due two (2) weeks prior to the hearing date and may be provided to the requesting party by mail rather than in person;*

*B. A subpoena for a witness to a deposition with no accompanying subpoena duces tecum must be requested sufficiently in advance and served upon the witness by the requesting party at least seven (7) days in advance of the deposition;*

*C. A subpoena for a witness to a hearing with no accompanying subpoena duces tecum must be requested sufficiently in advance and served upon the witness by the requesting party at least three (3) days in advance of the hearing.*

*D. The requesting party shall provide the name and address of any witness subpoenaed. The requesting party shall provide a detailed description of any records to be subpoenaed and a statement of what is intended to be proved by the records. Service of the subpoena is to be effected in accordance with section 536.077, RSMo.*

*E. A party may contest a subpoena by filing a Motion To Quash Subpoena and shall set out the reasons why the subpoena should be quashed. If the subpoena that is the subject of the Motion To Quash Subpoena was served seven (7) days or less prior to the hearing, a pre-hearing conference with the hearings officer assigned to the case will be immediately scheduled by the board.*

*7. Upon the acceptance of an appeal, the appellant and appointing authority or their representatives may meet with the Personnel Advisory Board, at a time and place set by the board for a prehearing conference to determine the facts at issue. At the prehearing conference, both parties may stipulate on mutually agreed matters relevant to the disciplinary action or the appeal may be resolved by agreement of the parties. If, during the prehearing conference, the case is not resolved and the appeal goes forward to a hearing before the Personnel Advisory Board, the board may confine the hearing to the law and facts at issue as stipulated by mutual agreement of the parties to the appeal. All parties are required to provide the board with a current address and telephone number. If the appellant fails to provide the board with a current address and telephone number and cannot be reached to schedule a prehearing conference, or does not participate in the prehearing conference after receiving written notice of the date, time, and location of the prehearing conference, it shall be deemed that the appellant no longer wishes to proceed with the appeal and is withdrawing the appeal;*

*8. All motions or other pleadings by the parties shall be submitted in writing with a copy served or mailed to the opposing party. Parties to an appeal may amend their pleadings as a matter of course at any time before a responsive pleading is filed and served, or if the pleading is one to which no responsive pleading is required and the action has not been set for hearing, the party may so amend it at any time within thirty (30) days after it is filed. Otherwise, a party may amend a pleading only by leave of the Personnel Advisory Board or by written consent of the adverse party; and leave shall be given freely when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ten (10) days after service of the amended pleading, whichever period may be the longer, unless the Personnel Advisory Board otherwise orders; and*

*9. Service of filings other than the original appeal:*

*A. Unless otherwise provided by these rules or by other law, any party to a proceeding before the board or any person who seeks to become a party shall serve upon all attorneys of record and unrepresented parties a copy of any*

*document or item the party files;*

*B. Methods of service.*

*(1) A person may service a document on an attorney by:*

*(a) Delivering it to the attorney;*

*(b) Leaving it at the attorney's office with a secretary, clerk, or attorney associated with or employed by the attorney served;*

*(c) Mailing it to the attorney's last known address; or*

*(d) Facsimile transmitting (faxing) it to the attorney's last known fax number;*

*C. Any document or item filed shall contain or be accompanied by a certification of how and when the filing party has met the provisions of subparagraph (3)(A)9.A. of this rule; and*

*D. The requirements of this paragraph shall not apply to an original appeal.*

*(B) Hearings Procedure. The conduct of hearings before the Personnel Advisory Board is subject to the following provisions:*

*1. Hearings will be held in the Office of the Personnel Advisory Board in Jefferson City, Missouri, unless a different location is specified by action of the board;*

*2. If no prehearing conference has been held, the board will make a determination of what questions are at issue based upon the notice of the disciplinary action and the appellant's contentions in the appeal prior to the taking of testimony. The hearing shall be confined to and come within the scope of law and facts that the board has determined to be at issue. The board may exclude evidence which is purely cumulative;*

*3. The person who imposed the discipline is to attend the hearing. If that person is not the appointing authority, it must be the subordinate to whom authority has been delegated. The person who imposed the discipline does not have to attend the hearing if:*

*A. The appellant has waived his or her attendance;*

*B. The parties agree to present his or her testimony by other means such as stipulation, affidavit, or testimony over the telephone or if either party wishes to present the testimony by deposition; or*

*C. He or she is unable to attend the hearing and the absence of his or her testimony would not unduly prejudice the appellant;*

*4. If the person who imposed the discipline is unavailable to provide his or her testimony for the hearing and the board determines that not having this testimony unduly prejudices the appellant, then the board may disapprove the appellant's discipline;*

*5. When the appointing authority is required to appear, he or she is not required to stay for the entire hearing. Rather, the appointing authority must only appear so that the appellant can ask him or her questions;*

*6. The person conducting the hearing will read a statement citing the appropriate sections of the merit system law applicable to appeals;*

*7. The person conducting the hearing will read the charges of the appointing authority and the contentions of the appellant. By agreement, these documents may be inserted in the record without reading before commencing the taking of testimony;*

*8. All witnesses will be sworn or affirmed. When possible, witnesses will stand to be sworn or affirmed;*

*9. The Personnel Advisory Board, on request of either party or on its own motion, may order that the witnesses be separated so as to preclude any witness, other than the parties and their attorneys, from hearing the testimony of other witnesses. When requested by the appellant, only one (1)*



person in addition to counsel shall remain in the room to represent the appointing authority;

10. The appointing authority will present his/her case first in appeals brought under section 36.390.5, RSMo, or in an appeal which is a combination of sections 36.390.5 and 105.055, RSMo. The appellant will present his/her case first in appeals brought only under section 105.055, RSMo, or by a regular employee from a non-merit agency that has adopted the provisions for appeals provided in section 36.390.5, RSMo, or a non-merit agency that has neither adopted the provisions for appeals provided in section 36.390.5, RSMo, or adopted substantially similar dismissal procedures as provided for in section 36.390.5, RSMo;

11. The Personnel Advisory Board may take notice of its rules, the class specifications, official records of the Personnel Division, and the pay plan without the necessity of an offer in evidence;

12. The Personnel Advisory Board may fix the total time to be allowed for oral argument;

13. At the hearing, the entire proceedings will be recorded. After the board announces its findings of fact, conclusions of law, and decision and order, or at an earlier time if the board determines that the interest of efficient administration would be served, a copy of the recording will be made available to either party. The board will not transcribe the recording to written form. The cost of a transcription will be borne by the requesting party. The transcription may be performed by any commercial business or agency selected by the requesting party. The board will forward directly to the selected business or agency a copy of the recording;

14. No rehearing, which includes any post-hearing motion other than a *Nunc Pro Tunc*, Request for Attorney's Fees, or Motion for Back Pay, shall be granted from a final decision of the Personnel Advisory Board. Should such a post-hearing motion be filed, it shall be deemed denied by the board and no ruling from the board is necessary; however, at any time prior to issuance of the decision, the board may require the production of additional documents and records, the presentation of additional testimony after prior notification to both parties, or both;

15. When the board issues an order dismissing an appeal or its findings of fact, conclusions of law, and decision, that order is a final decision on the merits and may be appealed as provided in Chapter 536, RSMo. A motion for attorney's fees, if any, is due to the board within thirty (30) days of its dismissing an appeal or its findings of fact, conclusions of law, and decision. The filing of a petition for judicial review or the fact that back pay has not been determined does not stay the thirty (30)-day requirement for filing the motion for attorney's fees with the board.

A. A motion for attorney's fees must be in writing and filed with the board and served on the appointing authority. The motion for attorney's fees must contain the following:

(I) A statement that the appellant meets one (1) of the two (2) definitions of "party" set out in Chapter 536, RSMo, including attaching an affidavit regarding the net worth of the appellant;

(II) An allegation that the appointing authority's position was not substantially justified and an explanation supporting that allegation. The fact that the appointing authority lost the appeal to the board does not support a presumption that the dismissal of the appellant was not substantially justified;

(III) The amounts of fees and expenses sought. This statement must be supported with an itemized statement from the attorney and expert witnesses (if any) setting out the actual time expended on the case, including the time spent on different issues in the case. Simply stating

"research four (4) hours" is not sufficiently detailed; what was researched must be stated; and

(IV) If the hourly rate requested is more than the statutory rate of seventy-five dollars (\$75), the requesting party must set out what special circumstances justify an award above the statutory rate;

B. Once a timely request for attorney's fees has been filed, the appointing authority must file a written response within thirty (30) days if the appointing authority has any objections to the request, including whether anything in the itemized statement is not sufficiently detailed or the amount of time spent was not reasonable. The appointing authority is not required to file a written response if the appointing authority has no objections to the request, the parties settle the case, or the parties agree to submit the fee's dispute to the board by stipulation; and

C. If the appointing authority has filed a written response setting out his or her objections to the request for attorney's fees, either party may request a hearing on any factual dispute. The board's hearings officer will decide whether a hearing is appropriate;

16. An appeal set for hearing may be continued by the Personnel Advisory Board for cause deemed sufficient or by consent of both parties to the appeal. However, a continuance will not be granted except for compelling cause or to serve the ends of justice. If an appellant requests and is granted a continuance, the Personnel Advisory Board, in its discretion, may deny the appellant any compensation for that portion of time lost by reason of the continuance made at the request if the appellant's appeal is finally sustained. If an appeal scheduled for hearing is not reached, it shall be reset and given precedence over any subsequent appeal;

17. The finding of the board will be announced in writing subsequent to the hearing. Parties will be notified by letter sent by certified mail. The finding will be made as provided in section 36.390.5, RSMo; and

18. As appropriate and where no specific rule governs the issue, the Personnel Advisory Board will utilize the rules of the civil procedure for guidance.

(C) *Special Hearing Procedures.* In the hearing of appeals from disciplinary actions and in the conduct of other appeals or investigations authorized under these rules or the merit system law, the board or the chairman of the board may delegate responsibility for the conduct of investigations and the hearing of appeals provided under any section of the law to a member of the board or to a hearing officer designated by the board. The hearing officer shall have the power to administer oaths, subpoena witnesses, and compel the production of records pertinent to any hearing or investigation. The hearing officer may take any action in connection with the hearing or investigation which the board itself is authorized to take by law other than making the final decision and appropriate order. When a hearing has been completed, the individual board member or the hearing officer who conducted the hearing shall prepare a summary of the hearing and the evidence and recommend a findings of fact, conclusions of law, decision and appropriate order for approval of the board. The board may adopt such recommendations in whole or in part, require the production of additional testimony, reassign the case for rehearing or may conduct itself a new or additional hearing as is deemed necessary prior to rendering a final decision (see section 36.390, RSMo). Whenever this rule uses the term Personnel Advisory Board or board, the same shall apply to a member of the board or a hearing officer who has been delegated the responsibility to conduct the investigation or hear the appeal.

(4) *Mediation.*

(A) Upon the filing of a request for mediation by both

parties, or upon a request for mediation by both parties made at the prehearing telephone conference that establishes the hearing date of a disciplinary appeal, mediation services may be provided by a hearings officer, a board member, or a neutral third party for the purpose of attempting a resolution of the appeal.

(B) The Personnel Advisory Board may order that mediation proceed in a disciplinary case before any further proceeding in such case.

(C) A written application for mediation services should include the case number, the name of each party and a brief explanation of the case.

(D) If the mediator is also a hearings officer or a board member, that hearings officer or board member shall be disqualified from conducting an evidentiary hearing relating to that particular case and shall not make any communication regarding the mediation discussions in the case to any board member or the hearings officer appointed to preside in the case. Further, such a board member shall not vote or otherwise participate in the decision on such a disciplinary appeal.

(E) If necessary, the hearings officer presiding over the case may stay the case pending mediation. In no event, however, shall mediation take over two (2) months. If a case cannot be resolved in that amount of time, it shall proceed to hearing. The parties, however, are always free to settle an appeal, and the appellant is always free to withdraw the appeal even should mediation efforts fail to resolve an appeal.

(F) Failure to appear and participate in good faith in mediation shall be grounds for sanctions including dismissal or default of the noncompliant party.

(G) Should there be any cost charged by a third party mediator, the cost shall be divided evenly between the parties unless the Personnel Advisory Board orders otherwise.]

**AUTHORITY:** section[s] 36.060, CCS for SCS for HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010 and section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of**  
**Personnel**  
**Chapter 4—Appeals, Investigations, Hearings and**  
**Grievances**

**EMERGENCY AMENDMENT**

**1 CSR 20-4.020 Grievance Procedures.** The Personnel Advisory Board is deleting references to its authority to conduct hearings.

**PURPOSE:** This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

**EMERGENCY STATEMENT:** This amendment changes the forum for certain appeals of personnel actions afforded to state employees and applicants for state employment. CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly (2010) transferred the authority to hear these appeals from the Personnel Advisory Board to the Administrative Hearing Commission effective August 28, 2010, mak-

ing this rule inconsistent with the authorizing statutes. The bill also changed the deadlines for filing appeals of certain actions of the director of the Division of Personnel. This emergency amendment is therefore necessary to preserve the compelling governmental interest in providing employees due process when they are aggrieved by a decision of an appointing authority or a decision of the director of the Division of Personnel for which the statutes provide a hearing. Allowing this rule to remain unchanged and inconsistent with the statutory enactment for the duration of the rulemaking process under Chapter 536, RSMo, would create confusion and possibly direct employees to the wrong agency, potentially causing those employees to miss the statutory deadline for filing appeals with the Administrative Hearing Commission thereby being denied due process. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*, and the Personnel Advisory Board will conduct a hearing on that rulemaking on November 9, 2010, at which it will consider any public comments. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 27, 2010, becomes effective September 7, 2010, and expires March 5, 2011.

(1) **Grievance Procedure Established.** The settlement of differences within the classified service between management and employees shall be provided through the establishment of an orderly grievance procedure in each division of service subject to the State Personnel Law.

(B) The grievance procedure shall not apply in instances where the grievance involves personnel transactions or administrative decisions of the appointing authority for which the personnel law or rules provide a specific appeal to the [Personnel Advisory Board or review by the personnel director] **Administrative Hearing Commission**.

(3) **Management Responsibility.** Each appointing authority shall prepare and submit to the personnel director for review, for the purpose of ascertaining conformance with this rule, formal written procedures for submission of grievances by employees and for prompt and orderly consideration and determination of the grievances by supervisors and administrators. The appointing authority shall be responsible for carrying out the provisions of the grievance procedure.

(A) The grievance procedures of each division of service shall distinguish between issues subject to review [by the personnel director or the Personnel Advisory Board] through personnel law, rules, or procedures and other matters subject to the grievance procedure. If there are separate procedures for filing internal complaints of discrimination, sexual harassment, retaliation for grievances, or other matters, these shall also be identified.

**AUTHORITY:** section 36.070, RSMo 2000. Original rule filed Dec. 8, 1975, effective Dec. 19, 1975. Amended: Filed Dec. 1, 1992, effective July 8, 1993. Amended: Filed Sept. 16, 2002, effective March 30, 2003. Amended: Filed April 14, 2005, effective Nov. 30, 2005. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. A proposed amendment, which covers the same material, is published in this issue of the *Missouri Register*.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 50—Missouri Ethics Commission**  
**Chapter 3—Late Fee**

**EMERGENCY AMENDMENT**

**1 CSR 50-3.010 Late Fee.** The commission is amending sections (1)–(6), (8), and (9).

**PURPOSE:** *This amendment conforms to the amendment to section 105.963.7, RSMo, in SB 844 passed by the Second Regular Session, Ninety-fifth General Assembly and establishes the procedure by which late fee appeals may be appealed per section 105.963.7, RSMo.*

**EMERGENCY STATEMENT:** *This emergency amendment is needed to implement the changes made by SB 844 (passed by the Second Regular Session, Ninety-fifth General Assembly, effective August 28, 2010) regarding application of late filing fees to personal financial disclosure reports and the appeal procedure relating to assessment of such late filing fees. The emergency amendment informs individuals who file appeals with the Missouri Ethics Commission (commission) of the assessment of late filing fees by the commission, the timing of the appeal, required contents for the appeal, the issue on appeal, and procedures at the appeal hearing. This emergency amendment is necessary to preserve the compelling governmental interest of notifying individuals of both the procedure for filing a late fee appeal with the commission and to prevent waiver of this appeal right by lack of notice of the appropriate procedure. This emergency amendment is best calculated to assure fairness to all interested persons and parties. The commission is filing this emergency amendment to provide notice to affected individuals who will have the right to file an appeal with the commission under section 105.963.7, RSMo, as amended by SB 844, passed by the Second Regular Session, Ninety-fifth General Assembly effective August 28, 2010. A proposed amendment, which covers the same material, is published in this issue of the **Missouri Register**. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. This emergency amendment was filed August 30, 2010, becomes effective September 9, 2010, and expires March 7, 2011.*

(1) As provided by section 105.963.7, RSMo, candidates, [candidate] committee treasurers, **lobbyists**, or [candidate committee assistant treasurers] **individuals required to file a personal financial disclosure statement with the commission** may make a written appeal of late filing fees assessed by the executive director of the Missouri Ethics Commission (commission) for failure to file a [campaign finance disclosure] report **or statement** in a timely manner.

(2) The written appeal must be filed with the commission within ten (10) days of the receipt of notice of the assessment of the late filing fee from the executive director **and shall set forth in writing the reasons for the appeal, including the facts which are alleged to constitute good cause for the failure to file the report or statement in a timely manner.**

(3) Failure to timely file an appeal **under the requirements of section (2) of this rule** shall waive the right to appeal the late fee assessment in question before the commission.

(4) The sole issue of the appeal shall be whether the individual's failure to file a [campaign finance disclosure] report **or statement** in a timely manner was due to good cause as determined by the commission.

(5) Appeals [shall] **may** be scheduled and conducted **as a written appeal**, by telephone [by the executive director unless a request for an], or in[-] person [appeal is made in writing to] **before** the executive director. The executive director shall [set/ review] the appeal no later than twenty-five (25) days after receipt of the notice of appeal or as soon as agreed to by both parties. [A] **The commission shall consider the written appeal unless a request for an in-person or telephonic appeal [must be filed with the commission no later than ten (10) days from the date of receipt of notice setting the date of the telephonic appeal] is**

**included in the written appeal filed under section (2).** Appeals conducted in[-] person shall be held at the offices of the Missouri Ethics Commission or at a location determined by the executive director.

(6) The party requesting an appeal of a late fee assessment may be represented by an attorney during any appeal. [At the appeal, the person requesting the appeal and/or the attorney of record may present any facts that show the person's failure to file a campaign finance disclosure report was for good cause as determined by the commission.]

(8) [Individuals requesting an appeal may request one (1) continuance concerning that appeal. All requests for a continuance shall be made in writing, state the factual basis for requesting the continuance, and be signed by the individual making the request. The decision to grant a] **A continuance [shall] may be granted** at the discretion of the executive director.

(9) After the appeal, the executive director shall forward to the commission [his] a recommendation on the appeal and place the appeal on the agenda for the next regularly-scheduled commission meeting. The commission shall render a final decision, separately stating their findings. The executive director shall send a copy of the commission's decision [by certified mail] to the individual requesting the appeal and a copy of the commission's decision [by regular mail] to the attorney of record.

**AUTHORITY:** *section 105.955.14[(7)](8), RSMo 2000. Original rule filed Oct. 4, 2001, effective April 30, 2002. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. A proposed amendment covering this same material is published in this issue of the **Missouri Register**.*

**U**nder this heading will appear the text of proposed rules and changes. The notice of proposed rulemaking is required to contain an explanation of any new rule or any change in an existing rule and the reasons therefor. This is set out in the Purpose section with each rule. Also required is a citation to the legal authority to make rules. This appears following the text of the rule, after the word "Authority."

**E**ntirely new rules are printed without any special symbolology under the heading of the proposed rule. If an existing rule is to be amended or rescinded, it will have a heading of proposed amendment or proposed rescission. Rules which are proposed to be amended will have new matter printed in boldface type and matter to be deleted placed in brackets.

**A**n important function of the *Missouri Register* is to solicit and encourage public participation in the rulemaking process. The law provides that for every proposed rule, amendment, or rescission there must be a notice that anyone may comment on the proposed action. This comment may take different forms.

**I**f an agency is required by statute to hold a public hearing before making any new rules, then a Notice of Public Hearing will appear following the text of the rule. Hearing dates must be at least thirty (30) days after publication of the notice in the *Missouri Register*. If no hearing is planned or required, the agency must give a Notice to Submit Comments. This allows anyone to file statements in support of or in opposition to the proposed action with the agency within a specified time, no less than thirty (30) days after publication of the notice in the *Missouri Register*.

**A**n agency may hold a public hearing on a rule even though not required by law to hold one. If an agency allows comments to be received following the hearing date, the close of comments date will be used as the beginning day in the ninety (90)-day-count necessary for the filing of the order of rulemaking.

**I**f an agency decides to hold a public hearing after planning not to, it must withdraw the earlier notice and file a new notice of proposed rulemaking and schedule a hearing for a date not less than thirty (30) days from the date of publication of the new notice.

Proposed Amendment Text Reminder:

**Boldface text indicates new matter.**

*[Bracketed text indicates matter being deleted.]*

## Title 1—OFFICE OF ADMINISTRATION Division 15—Administrative Hearing Commission Chapter 3—Procedure For All Contested Cases Under Statutory Jurisdiction

### PROPOSED AMENDMENT

**1 CSR 15-3.290 Filing of Documents; Fax Filing; Posting Bond.**  
The commission is amending sections (2) and (3).

*PURPOSE: Since this rule was originally promulgated, fax filing has become very common, and there is no longer a need for parties to notify the commission in advance for fax filing. Parties who must post a bond sometimes believe erroneously that a copy of the bond will suffice. This change will inform parties that a bond is not filed until the commission receives the original bond.*

(2) A party filing by fax shall—

*[(A) Notify the commission in advance, if possible, of its intention to file the document by fax;]*

*[(B)](A)* Fax the document to the commission's dedicated fax number;

*[(C)](B)* Fax the document, if possible, to all other parties having electronic facsimile equipment. If unable to fax, a party shall notify all other parties of its intention to file the document by fax. The notice need not be in writing. A good faith attempt at compliance shall satisfy the requirements of this subsection;

*[(D)](C)* If the commission so orders, send the original signed document to the commission;

*[(E)](D)* Certify in the documents the method of notice used to fulfill the requirements of subsection (2)*[(C)](B)* of this rule; and

*[(F)](E)* Send a copy of the document to all parties as provided in 1 CSR 15-3.270. The commission may order the party to send a copy of the document to any party by overnight mail.

(3) Bonds. A bond is posted when the commission receives *[it]* **the original bond**, unless the commission orders otherwise.

*AUTHORITY: section[s] 621.035, RSMo 2000 and section 621.198, RSMo Supp. [2004] 2009. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed June 1, 2005, effective Nov. 30, 2005. Amended: Filed Aug. 30, 2010.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 5, 2010, at 12:00 p.m., in Room 500, Truman State Office Building, Jefferson City, Missouri.*

## Title 1—OFFICE OF ADMINISTRATION Division 15—Administrative Hearing Commission Chapter 3—Procedure For All Contested Cases Under Statutory Jurisdiction

### PROPOSED AMENDMENT

**1 CSR 15-3.350 Complaints.** The commission is amending paragraph (1)(B)3. to clarify that complaints will not be dismissed for failure to contain numbered paragraphs; section (2) to set forth the requirements to file cases arising under sections 36.280, 36.370, 36.380, and 36.390, RSMo; and section (3) to provide for a different method of notice in motor vehicle franchise cases.

*PURPOSE: The commission is amending section (1) of this rule to inform parties that the commission will not dismiss a complaint solely because it does not contain numbered paragraphs. The change to section (2) is to set forth the requirements for filing a complaint in cases arising under Chapter 36, RSMo, as those were added to the commission's jurisdiction on August 28, 2010. The change to section (3) is to conform the commission's regulations to section 407.822, RSMo.*

(1) In General. The commission shall construe the provisions of this rule liberally if petitioner has prepared the complaint without legal counsel.

(B) Petitioner shall include in the complaint:

1. The full name, address, and telephone number of—
  - A. Petitioner; and
  - B. Any attorney representing petitioner;
2. Suitable space in the caption for the commission to affix a case number; **and**
3. As far as practical, facts in numbered paragraphs stating the relief sought and the reason for granting it; **however, the failure to include facts in numbered paragraphs shall not be a reason for involuntary dismissal of a complaint.**

(2) Specific Cases. In addition to the other requirements of this rule—

(E) In a case arising pursuant to section 36.280, 36.370, 36.380, or 36.390, RSMo, the petition shall include a copy of any notice of the action of which the employee seeks review and shall state—

1. The action being appealed; and
2. In the case of a dismissal, suspension for greater than five (5) days, or demotion, the reason the employee alleges that the dismissal, suspension, or demotion was—
  - A. For political reasons;
  - B. For religious reasons;
  - C. For racial reasons; or
  - D. Not for the good of the service.

The petitioner may, but is not required to, utilize a form provided by the commission for purposes of appeals covered by this subsection.

(3) Notice.

(B) Except in cases arising under section 407.822, RSMo, [T]he commission shall serve a copy of the complaint on the respondent.

*AUTHORITY: section 621.035, RSMo 2000 and sections 621.053 and 621.198, RSMo Supp. [2007] 2009. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. Amended: Filed Aug. 30, 2010.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 5, 2010, at 12:00 p.m., in Room 500, Truman State Office Building, Jefferson City, Missouri.*

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
Statutory Jurisdiction**

**PROPOSED AMENDMENT**

**1 CSR 15-3.380 Answers and Other Responsive Pleadings.** The commission is amending section (1) of the rule to provide an exception to the general rule that answers must be filed in all cases. It is amending section (7) to provide for shorter time frames for filing certain motions in cases arising under Chapter 36, RSMo.

*PURPOSE: In section (1), the commission is providing an exception to the general rule that answers must be filed in all cases for cases arising under Chapter 36, RSMo, because in those cases, the appointing authority's notice to the employee serves the same function as an answer, and because it is anticipated that parties may request expedited hearings for such cases. The change to section (7) is to allow shorter time frames for filing certain motions in cases arising under Chapter 36, RSMo, again because it is anticipated that parties may request expedited hearings for such cases.*

(1) The respondent shall file an answer in all cases except those arising pursuant to sections 36.280, 36.370, 36.380, and 36.390, RSMo, in which case respondent may, but is not required to, file an answer, unless the commission orders that an answer be filed.

(7) Failure to File.

(B) Except in cases under section/s/ 36.280, 36.370, 36.380, 36.390, 407.822.1, or 407.1031.1, RSMo, petitioner shall file the motion not fewer than thirty (30) days before the hearing on the complaint or the motion shall be waived. In cases under section/s/ 407.822.1 or 407.1031.1, RSMo, petitioner shall file a motion for a remedy only with the commissioner's leave and pursuant to a schedule ordered by the commission.

*AUTHORITY: section 621.035, RSMo 2000 and section 621.198, RSMo Supp. [2007] 2009. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. Amended: Filed Aug. 30, 2010.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 5, 2010, at 12:00 p.m., in Room 500, Truman State Office Building, Jefferson City, Missouri.*

**Title 1—OFFICE OF ADMINISTRATION  
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Statutory Jurisdiction**

**PROPOSED AMENDMENT**

**1 CSR 15-3.431 Voluntary Dismissal, Settlement, and Consent Orders.** The commission is amending section (1).

*PURPOSE: The purpose for this amendment is to delete the words "without prejudice." Parties often do not have a choice as to whether a dismissal is with or without prejudice, and the phrase here causes confusion.*

(1) Voluntary Dismissal. Petitioner may voluntarily dismiss the complaint by filing a notice of dismissal stating that petitioner dismisses the complaint. A notice of dismissal dismisses the complaint and is effective as of the date on which petitioner files it, without any action by the commission. Petitioner may dismiss the complaint *[without prejudice]*, subject to statutory time limits for refile—

*AUTHORITY: sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. [2007] 2009. Original rule filed July 2, 2008, effective Jan. 1, 2009. Amended: Filed Aug. 30, 2010.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 5, 2010, at 12:00 p.m., in Room 500, Truman State Office Building, Jefferson City, Missouri.*

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
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**PROPOSED AMENDMENT**

**1 CSR 15-3.436 Involuntary Dismissal.** The commission is amending subsection (2)(B) to allow motions for involuntary dismissal to be filed less than forty-five (45) days before a hearing, if good cause exists.

*PURPOSE: The purpose of this amendment is to allow the commission discretion to consider a motion for involuntary dismissal filed less than forty-five (45) days before a hearing, if good cause exists.*

(2) Respondent may file a motion for involuntary dismissal on all or any part of the complaint except that, unless the commission grants leave otherwise, respondent shall not file a motion for involuntary dismissal—

(B) In any case less than forty-five (45) days before the hearing, **except by leave of the commission for good cause.**

*AUTHORITY: sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. [2007] 2009. Original rule filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. Amended: Filed Aug. 30, 2010.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557, Jefferson City, MO 65102. To be consid-*

*ered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 5, 2010, at 12:00 p.m., in Room 500, Truman State Office Building, Jefferson City, Missouri.*

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
Statutory Jurisdiction**

**PROPOSED AMENDMENT**

**1 CSR 15-3.446 Decision on the Complaint without a Hearing.** The commission is amending subsection (2)(B) to allow dispositive motions to be filed less than forty-five (45) days before a hearing, if good cause exists, adding a new section (3), and renumbering the remaining sections.

*PURPOSE: The purpose of this amendment is to allow the commission discretion to consider dispositive motions filed less than forty-five (45) days before a hearing if good cause exists.*

(2) Any party may file a motion for a decision without hearing on all or any part of the complaint except that, unless the commission grants leave otherwise, no party shall file a motion for decision without hearing—

(B) In any case, less than forty-five (45) days before the hearing, **except by leave of the commission for good cause.**

**(3) Decision on Stipulated Facts. The parties may file a stipulation of facts and may waive hearing before the commission. The parties or their attorneys shall sign the stipulation.**

*[(3)](4) Decision on the Pleadings. A decision on the pleadings is a decision without hearing based solely on the complaint and the answer. The commission may grant a motion for decision on the pleadings if a party's pleading, taken as true, entitles another party to a favorable decision. Petitioner shall not file a motion for decision on the pleadings before the time for filing a responsive pleading has expired, except with the consent of all other parties.*

*[(4)](5) Consent Orders in Cases Under Section 620.149, RSMo, and Contested Cases Under Section 621.045, RSMo. A motion for a consent order shall contain stipulated facts necessary to support the relief sought under the cited legal authority. Parties seeking a consent order under this section shall jointly file a motion that includes substantially the following language:*

The parties stipulate that *(party)* committed the following conduct:  
*(Conduct)*.

*(Party)* admits that such conduct is cause for *(the relief sought)* under the following legal authority:

*(Legal Authority)*.

Therefore, the parties agree to *(the relief sought)*.

*[(5)](6) Summary Decision. Summary decision is a motion for decision without hearing that relies on matters outside the pleadings and is not filed jointly by all parties.*

(A) The commission may grant a motion for summary decision if a party establishes facts that entitle any party to a favorable decision and no party genuinely disputes such facts.

(B) Parties may establish a fact, or raise a dispute as to such facts, by admissible evidence. Admissible evidence includes a stipulation,

pleading of the adverse party, discovery response of the adverse party, affidavit, or other evidence admissible under the law. A party shall not rely solely on its own pleading to establish any fact, or to raise a genuine issue as to any fact. A party may meet the requirements for the content of a motion, or for a response to a motion, under section [(5)](6) of this rule by complying with Missouri Supreme Court Rule of Civil Procedure 74.04.

(C) Petitioner shall not file a motion for summary decision before the time for filing a responsive pleading has expired, except with the consent of all other parties.

**AUTHORITY:** sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. [2007] 2009. Original rule filed July 2, 2008, effective Jan. 1, 2009. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. Amended: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for November 5, 2010, at 12:00 p.m., in Room 500, Truman State Office Building, Jefferson City, Missouri.

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
Statutory Jurisdiction**

**PROPOSED AMENDMENT**

**1 CSR 15-3.480 Motions.** The commission is amending this rule to delete the reference to 1 CSR 15-3.440.

**PURPOSE:** The purpose for this amendment is to delete the reference to a previously-rescinded rule.

The commission may rule upon any motion filed with it, *including a motion under 1 CSR 15-3.440,* on the basis of the record before it and without oral argument. The commission shall hear oral argument or evidence only upon a party's written motion and for good cause shown or upon the commission's own motion. The commission need not rule on a motion that does not clearly request action by the commission.

**AUTHORITY:** section 621.198, RSMo Supp. [2003] 2009. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed June 1, 2004, effective Nov. 30, 2004. Amended: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing

*Commission, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. A public hearing is scheduled for November 5, 2010, at 12:00 p.m., in Room 500, Truman State Office Building, Jefferson City, Missouri.*

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
Statutory Jurisdiction**

**PROPOSED AMENDMENT**

**1 CSR 15-3.490 Hearings on Complaints; Default.** The commission is amending section (2) of this rule to provide for testimony and hearings by telephone or videoconferencing equipment and to eliminate the requirement that hearings be held in Jefferson City, Missouri, unless good cause is shown.

**PURPOSE:** The commission's purpose in amending section (2) of this rule is to eliminate the requirement that hearings be held in Jefferson City, Missouri, unless good cause is shown, and to inform parties that hearings may be held or testimony taken by telephone or by videoconferencing equipment upon written request. It is anticipated that this request will be made more frequently when cases arising under Chapter 36, RSMo, are transferred to the commission's jurisdiction.

(2) *[Location. The commission will hold all hearings in Jefferson City, Missouri, except as otherwise provided by statute or when one (1) of the parties shows good cause to hold the hearing elsewhere within the state.] Use of Telephone or Videoconferencing Equipment.* Any party may, for good cause, request in writing that the hearing be conducted or certain testimony taken by telephone or videoconferencing equipment.

**AUTHORITY:** sections 536.073.3 and 621.035, RSMo 2000 and section 621.198, RSMo Supp. [2007] 2009. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. Amended: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for November 5, 2010, at 12:00 p.m., in Room 500, Truman State Office Building, Jefferson City, Missouri.

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
Statutory Jurisdiction**

**PROPOSED RULE**

**1 CSR 15-3.500 Written Arguments**



*PURPOSE:* This rule sets forth procedures for filing written arguments or proposed findings of fact and conclusions of law after the hearing.

The parties may request, or the commission may order them, to file written arguments, proposed findings of fact and conclusions of law, or both.

*AUTHORITY:* section 621.198, RSMo Supp. 2009. Original rule filed Aug. 30, 2010.

*PUBLIC COST:* This proposed rule will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rule will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed rule with the Administrative Hearing Commission, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for November 5, 2010, at 12:00 p.m., in Room 500, Truman State Office Building, Jefferson City, Missouri.

**Title 1—OFFICE OF ADMINISTRATION  
Division 15—Administrative Hearing Commission  
Chapter 3—Procedure For All Contested Cases Under  
Statutory Jurisdiction**

**PROPOSED AMENDMENT**

**1 CSR 15-3.560 Fees and Expenses.** The commission is amending this rule to delete a confusing reference.

*PURPOSE:* The purpose for this amendment is to clarify that Chapter 536, RSMo, governs proceedings for fees and expenses. The reference to “this” chapter is confusing.

A party may file a complaint for litigation fees and expenses as authorized by law. Such complaint shall be a separate contested case. The complaint for fees and expenses shall be governed by [this c/Chapter 536, RSMo.

*AUTHORITY:* section 621.198, RSMo [2000] Supp. 2009. Original rule filed Aug. 5, 1991, effective Feb. 6, 1992. Amended: Filed Oct. 31, 1994, effective May 28, 1995. Amended: Filed Jan. 11, 2001, effective July 30, 2001. Amended: Filed Aug. 30, 2010.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Administrative Hearing Commission, PO Box 1557, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. A public hearing is scheduled for November 5, 2010, at 12:00 p.m., in Room 500, Truman State Office Building, Jefferson City, Missouri.

**Title 1—OFFICE OF ADMINISTRATION  
Division 20—Personnel Advisory Board and Division of  
Personnel  
Chapter 1—Organization and Operation**

**PROPOSED AMENDMENT**

**1 CSR 20-1.010 General Organization.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in section (2).

*PURPOSE:* This amendment deletes references to the board’s authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

(2) Personnel Advisory Board. Within the Division of Personnel is the Personnel Advisory Board consisting of seven (7) members who are nominated by the commissioner of administration and appointed by the governor with the advice and consent of the senate. Four (4) members of the board shall be public members, citizens of the state who are not state employees or officials, of good character and reputation, who are known to be in sympathy with the application of merit principles to public employment. Two (2) members shall be employees of either a merit agency or an agency covered by uniform classification and pay, one (1) a member of executive management, and one (1) a non-management employee. [Members who are employees shall not participate in disciplinary appeal decisions from their agencies.] The state equal employment opportunity officer shall be a member of the board. No member of the board, during his/her term of office, or for at least one (1) year prior to that, shall be a member of any local, state, or national committee of a political party or an officer or member of a committee in any partisan political club or organization[, or hold, or be a candidate for, a partisan public office. An employee member who leaves state employment or otherwise fails to further qualify for the appointment shall vacate the position. The Personnel Advisory Board prescribes rules[, and approves classification and pay plans prepared by the Division of Personnel [and conducts appeal hearings for examination applicants and employees in agencies subject to the State Personnel Law]. In addition to these and other duties imposed upon the board by law and elsewhere in these rules, it is also the duty of the board to—

(C) Advise and assist the director in fostering the interest of institutions of learning and civic, professional, and employee organizations in the improvement of personnel standards in the public service;

*AUTHORITY:* section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. Amended: Filed Aug. 27, 2010.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Bill Miller, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m.,

November 9, 2010, in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 1—Organization and Operation**

**PROPOSED AMENDMENT**

**1 CSR 20-1.030 Personnel Rules.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in section (1).

*PURPOSE:* This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

(1) These rules give effect to the provisions of the State Personnel Law. The rules shall be applied in accordance with the purposes of the law, which are interpreted and declared to be as follows:

(A) To establish and maintain for certain employees of the state, a merit system of personnel administration to govern the appointment, promotion, transfer, layoff, removal, discipline, and other incidents of state employment on the basis of merit and fitness;

(B) To establish and maintain for certain employees of the state, a uniform system of classification and pay administration to govern the establishment, allocation, and compensation of positions within the classification plan and the use of appropriate class titles in the official records, vouchers, payrolls, and communications, as provided for in section 36.031, RSMo;

(C) To establish for affected employees, rules governing hours of work, holidays, and leaves of absence, as provided for in section 36.350, RSMo; and

*[(D) To establish rules for the appeal of specified personnel actions to the Personnel Advisory Board, pursuant to section 36.390, RSMo; and]*

*[(E)](D)* To promote effective and efficient personnel management practices in state government and to aid all state agencies in personnel matters.

*AUTHORITY:* section 36.070, RSMo [1986] 2000. Original rule filed July 9, 1947, effective July 19, 1947. Amended: Filed Dec. 8, 1975, effective Dec. 19, 1975. Amended: Filed Feb. 25, 1992, effective Aug. 6, 1992. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. Amended: Filed Aug. 27, 2010.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Bill Miller, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m., November 9, 2010, in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 2—Classification and Pay Plans**

**PROPOSED AMENDMENT**

**1 CSR 20-2.015 Broad Classification Bands for Managers.** The Personnel Advisory Board is deleting a reference to its authority to conduct hearings in subparagraph (3)(B)2.D.

*PURPOSE:* This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

(3) Compensation Structure. The director will recommend to the board establishment and adoption of pay bands as considered necessary and equitable in order to group and maintain positions with similar levels of management responsibility or expertise. The provisions of 1 CSR 20-2.020 The Pay Plan[,] are applicable in the preparation, adoption, maintenance, and administration of the pay plan for broad classification bands, except as specifically outlined in this section[,] or necessary for implementation.

(B) Administration. The implementation and ongoing administration of pay within the broad classification bands shall be conducted in a manner which promotes equitable pay relationships and the efficient and effective practice of personnel administration. When the meaning and purpose of a rule is not otherwise affected, the term band may replace range. Appointing authorities shall have a responsibility to exercise the discretion included in these rules in a manner which avoids inconsistent, arbitrary, or discriminatory pay actions. The pay plan for the broadbanded system shall be administered in accordance with 1 CSR 20-2.020 and the following provisions:

1. Appointment rate. The initial appointment rate to a position in a broad classification band is at the discretion of the appointing authority. In making these determinations, consideration should be given to the individual's qualifications, permanent position-related factors, such as working conditions or physical location of work, and/or recruitment or staffing needs. The proposed rate of pay should not exceed that which is being paid to present employees with comparable qualifications in similar position-related circumstances;

2. Salary advancements. Salary advancements within the band occupied by an employee are of three (3) types: probationary salary advancements, specific salary advancements authorized during a fiscal year, and discretionary salary advancements, administered in accordance with the following provisions:

A. A probationary salary advancement is authorized for an employee upon successful completion of the initial probationary period. An appointing authority may grant a salary advancement following successful completion of a probationary period in a higher level band or after an appropriate period of time following upward reclassification;

B. Within-grade, market progression, or other specific salary advancements within the pay bands, which are only authorized during a fiscal year when specific funding has been appropriated for all agencies, will be implemented in accordance with guidelines and instructions issued by the board;

C. Discretionary salary advancements may be granted by an appointing authority as warranted by the needs of the service. For classified positions in the broadbanded service, discretionary salary advancements cannot be given during a probationary period, unless approved by the director of the Division of Personnel in cases where it does not affect competitive appointments that would compromise the selection group as enumerated in 1 CSR 20-3.030(3)(A); and

D. In the broadbanded management service, a conditional

salary advancement is a discretionary within-band advancement associated with the assignment of higher level duties or responsibilities of a permanent nature. At the discretion of the appointing authority, and without appeal to the [Personnel Advisory Board] **Administrative Hearing Commission**, such higher level duties and responsibilities and the associated conditional salary advancement may be withdrawn within a period of time not to exceed twenty-four (24) months as specified by the appointing authority. When a conditional salary advancement is established, the appointing authority will provide the affected employee with written notice describing the conditions under which the advancement is given[,] and the time frame during which it can be withdrawn.

*AUTHORITY: section 36.070, RSMo 2000. Original rule filed March 11, 1999, effective Sept. 30, 1999. Emergency amendment filed Jan. 2, 2003, effective Jan. 12, 2003, expired July 10, 2003. Amended: Filed Jan. 15, 2003, effective June 30, 2003. Amended: Filed Aug. 15, 2003, effective Feb. 29, 2004. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. Amended: Filed Aug. 27, 2010.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Bill Miller, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m., November 9, 2010, in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.*

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 3—Personnel Selection, Appointment, Evaluation and Separation**

**PROPOSED AMENDMENT**

**1 CSR 20-3.010 Examinations.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in section (5).

*PURPOSE: This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.*

(5) **Disqualification of Applicants.** The director may reject the application of any person for admission to examination, strike the name of any person from a register, refuse to certify the name of any person, or withdraw the certification of a person if the director finds that the person lacks any of the qualifications; or has been convicted of a crime which brings into question the qualifications of that person; or has been dismissed from the public service for delinquency; or has made a false statement of a material fact; or has practiced or attempted to practice any fraud or deception in application or examination or in attempting to secure appointment. Whenever the director disqualifies an applicant, the director shall furnish the applicant a notice of disqualification. In the case of disqualification, an appeal may be

taken to the [board in accordance with 1 CSR 20-4.010(1)(A)] **Administrative Hearing Commission**.

*AUTHORITY: section[s] 36.060, CCS for SCS for HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010 and section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. Amended: Filed Aug. 27, 2010.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Bill Miller, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m., November 9, 2010, in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.*

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 3—Personnel Selection, Appointment, Evaluation and Separation**

**PROPOSED AMENDMENT**

**1 CSR 20-3.020 Registers.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in section (8).

*PURPOSE: This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.*

(8) **Restoration of Names to Registers.** An eligible whose name is removed from a register as provided previously may make a written request to the director for restoration of his/her name to the register for the duration of the register. This request shall set forth the reasons for the conduct resulting in removal of the name from the list and shall further specify the reasons advanced for restoration of the name to the register. The director, after full consideration of the request, may restore the name to the register or may refuse the request. The eligible shall be notified of the director's action and may make a written appeal to the [board] **Administrative Hearing Commission** to review the director's action. A former employee reinstated or reemployed in the state service shall have his/her name restored to any existing promotional register from which it was removed because of separation from the state service, provided the director approves the employee's written application for this action. A probationary or permanent employee whose name has been removed from a divisional promotional register by transfer or original appointment with probationary or permanent status under a new appointing authority may have his/her name placed on the divisional promotional register for the same class in the new division, provided written application, made by the employee during the duration of the register from which the name was removed, is approved by the new appointing authority and the director.

**AUTHORITY:** section[s] 36.060, *CCS for SCS for HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010* and section 36.070, *RSMo 2000*. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. Amended: Filed Aug. 27, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Bill Miller, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m., November 9, 2010, in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 3—Personnel Selection, Appointment, Evaluation and Separation**

**PROPOSED AMENDMENT**

**1 CSR 20-3.030 Certification and Appointment.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in subsection (5)(B).

**PURPOSE:** This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, *RSMo*, in *CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010*, effective August 28, 2010.

(5) Transfers. An appointing authority at any time may assign an employee from one (1) position to another position in the same class in the same division except that transfers of employees made because of a layoff or shortage of work or funds which might require a layoff shall be governed by 1 CSR 20-3.070 and the layoff procedures adopted. Upon making this assignment, the appointing authority immediately shall give written notice of the action to the director. A transfer of an employee from a position in one (1) division in the classified service to a position in the same class in another division in the classified service may be made with the approval of the director and of the appointing authorities of both divisions.

(B) Any change of an employee from a position in one (1) class to a position in a class of lower rank shall be considered a demotion and shall be made only in accordance with the procedure provided in 1 CSR 20-3.070(4). An employee demoted shall have the right of appeal to the [board in accordance with the provisions of the law and 1 CSR 20-4.010(1)(D)] **Administrative Hearing Commission**. Transfers from one (1) class to another class of comparable rank shall be subject to review and approval of the director.

(C) An employee who has successfully served at least one (1) year in a position covered by the uniform classification and pay system as described in section 36.031, *RSMo*, but not by the Merit System service as described in section 36.030.1, *RSMo*, may be transferred to a position in the Merit System service in the same class with the approval of the director and of the appointing authorities of both divisions,

provided the employee possesses the qualifications and has successfully completed a noncompetitive examination for the position involved.

(E) In the case of a permanent, involuntary transfer from one (1) geographical area to another, the appointing authority shall give written notice of the action to the director and to the employee thirty (30) days prior to the effective date of the action. This notice will indicate the reason for the transfer. If the employee requests a personal explanation, the appropriate supervisor or manager, as determined by the appointing authority, will grant the affected employee a personal interview, will explain the reasons for the transfer, and will provide the employee with an opportunity to ask questions. Geographical areas will be those prescribed by the director in accordance with 1 CSR 20-3.070(1)(E) Area Layoff. The affected employee may make a written request to the director asking for review of the action on the basis that **the action**, in the employee's opinion, was for arbitrary, capricious, or punitive reasons and not for the good of the service. The director shall conduct an appropriate investigation and shall approve or disapprove the transfer taking into consideration information received from both the employee and the appointing authority. Both the employee and the appointing authority will be notified of the director's action.

**AUTHORITY:** section[s] 36.060, *CCS for SCS for HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010* and section 36.070, *RSMo [Supp. 1995] 2000*. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. Amended: Filed Aug. 27, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Bill Miller, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m., November 9, 2010, in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 3—Personnel Selection, Appointment, Evaluation and Separation**

**PROPOSED AMENDMENT**

**1 CSR 20-3.070 Separation, Suspension, and Demotion.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in sections (3), (4), and (5).

**PURPOSE:** This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, *RSMo*, in *CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010*, effective August 28, 2010.

(3) Suspension. An appointing authority, for disciplinary purposes, may suspend without pay any employee in his/her division. A suspension may be made for a length of time as s/he considers appropriate, not exceeding twenty (20) working days in any twelve (12)-month period except that this limitation shall not apply in the event of a terminal suspension given in conjunction with a dismissal; a suspension given in connection with a criminal offense involving the use of a controlled substance; or, with the approval of the director, a suspension made pending the investigation or trial of any charges against the employee (see section 36.370, RSMo). Employees enumerated in 1 CSR 20-5.010(1)(C) and (D) and designated as exempt from the overtime requirements of the Fair Labor Standards Act[,] shall not be suspended from duty without pay for disciplinary purposes unless the said suspension is for one (1) or more full workdays.

(A) Any employee being suspended shall be furnished with a statement in writing specifically setting forth the reasons for the suspension. A copy of the statement shall be furnished to the director. No suspension of a regular employee for a period longer than five (5) workdays shall take effect unless, prior to the effective date, the appointing authority gives to the employee a written statement setting forth in substance the reason, informs the employee of appeal rights, provides the employee with a copy of the form for appeal to the [board prescribed in 1 CSR 20-4.010(3)(A)1.] **Administrative Hearing Commission**, and provides the employee with an opportunity to respond to the reason prior to the effective date. Any regular employee who is suspended for more than five (5) workdays may appeal in writing to the [board] **Administrative Hearing Commission** within thirty (30) days after the effective date thereof setting forth in substance reasons for claiming the suspension was for political, religious, or racial reasons or not for the good of the service[, as provided in 1 CSR 20-4.010(1)(D) and section 36.390, RSMo]. For the purpose of the appeal process, the effective date of a suspension will be the first day the employee is suspended without pay.

(E) In the event of an instance of unacceptable conduct by an employee that in the judgment of the appointing authority does not warrant immediate suspension, dismissal, or demotion, but which requires a permanent record, the appointing authority may record such conduct in the employee's service history by notifying the personnel director in a manner prescribed by the director.

(4) Demotions. An appointing authority may demote an employee in accordance with the following:

(A) No demotion for cause of a regular employee shall take effect unless, prior to the effective date, the appointing authority gives to the employee a written statement setting forth in substance the reason, informs the employee of appeal rights, provides the employee with a copy of the form for appeal to the [board prescribed in 1 CSR 20-4.010(3)(A)1.] **Administrative Hearing Commission**, provides the employee with an opportunity to respond to the reason prior to the effective date, and files a copy of the statement of the reason with the director. Any regular employee who is involuntarily demoted for cause may appeal in writing to the [board] **Administrative Hearing Commission** within thirty (30) days after the effective date thereof setting forth in substance reasons for claiming that the demotion was for political, religious, or racial reasons or not for the good of the service[, as provided in 1 CSR 20-4.010(1)(D) of the rules and section 36.390, RSMo];

(5) Dismissals. An appointing authority may dismiss for cause any employee in his/her division occupying a position subject hereto when s/he considers the action is required in the interests of efficient administration and that the good of the service will be served.

(A) No dismissal of a regular employee shall take effect unless, prior to the effective date, the appointing authority gives to the employee a written statement setting forth in substance the reason, informs the employee of appeal rights, provides the employee with a copy of the form for appeal to the [board prescribed in 1 CSR 20-4.010(3)(A)1.] **Administrative Hearing Commission**, provides

the employee with an opportunity to respond to the reason prior to the effective date, and files a copy of the statement of the reason with the director. Any regular employee who is dismissed shall have the right to appeal in writing to the [board] **Administrative Hearing Commission** within thirty (30) days after the effective date setting forth in substance reasons for claiming the dismissal was for political, religious, or racial reasons or not for the good of the service[, as provided in 1 CSR 20-4.010(1)(D) of these rules and section 36.390, RSMo].

(C) For non-merit agencies that have elected to follow the provisions for appeals for certain positions provided in section 36.390, RSMo, or have failed to adopt dismissal procedures substantially similar to those provided for merit employees, the following applies:

1. No dismissal of a non-merit employee shall take effect unless, prior to the effective date of the dismissal[:]-

A. The appointing authority gives the employee a written statement setting forth in substance why this dismissal is for the good of the service or not against the good of the service;

B. The appointing authority informs the employee of his/her appeal rights and provides the employee with a copy of the form for appeal to the [board prescribed in 1 CSR 20-4.010(3)(A)1.] **Administrative Hearing Commission**; and

C. The appointing authority files a copy of the statement with the director.

2. This regulation does not require that the appointing authority articulate "cause" or a reason for the employee's dismissal. Further, the terms "cause" and "for the good of the service" are not synonymous.

(D) Any regular non-merit employee who is dismissed from an agency that has elected to follow the provisions for appeals for certain positions provided in section 36.390, RSMo, or has failed to adopt dismissal procedures substantially similar to those provided for merit employees, shall have the right to appeal in writing within thirty (30) days after the effective date of the dismissal. [The appeal shall set forth in substance reasons for claiming the dismissal were for political, religious, or racial reasons or not for the good of the service, as provided in section 36.390.9, RSMo.

(E) Any regular non-merit employee whose agency has elected to follow the provisions for appeals for certain positions provided in section 36.390, RSMo, or has failed to adopt dismissal procedures substantially similar to those provided for merit employees, has the burden of proving that his/her dismissal was for political reasons, religious reasons, racial reasons, or not for the good of the service and shall produce his/her evidence first.

(F) Any regular merit or non-merit employee who appeals to the board solely under section 105.055, RSMo has the burden of proof and shall produce his/her evidence first. Any appeal where the regular merit or non-merit employee has filed both under Chapter 36, RSMo and under section 105.055, RSMo where the burden of proof for Chapter 36, RSMo is on the appointing authority and for section 105.055, RSMo is on the appealing employee, the appointing authority shall produce his/her evidence first.]

**AUTHORITY:** section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. Amended: Filed Aug. 27, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Bill Miller, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m., November 9, 2010, in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 3—Personnel Selection, Appointment, Evaluation and Separation**

**PROPOSED AMENDMENT**

**1 CSR 20-3.080 General Provisions and Prohibitions.** The Personnel Advisory Board is deleting references to its authority to conduct hearings in subsection (4)(B).

**PURPOSE:** This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

**(4) Prohibition of Discrimination.**

(A) Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration, because of political or religious opinions or affiliations or because of race, creed, color, national origin, ancestry, or any other non-merit factors is prohibited. Discrimination on the basis of age or sex or physical disability is prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration.

(B) In any case of alleged discrimination for which a review is not provided by the Missouri Commission on Human Rights and Chapter 213, RSMo, or by other provisions of these rules, an applicant or employee who feels adversely affected in an opportunity for employment, in his/her status as an employee, or in his/her condition of employment because of this discrimination, under this rule, may appeal to the *[Personnel Advisory Board]* **Administrative Hearing Commission** for a review of the alleged discriminatory action or practice. The request for this review shall be filed by the applicant or employee in writing with the *[Personnel Advisory Board]* **Administrative Hearing Commission** within thirty (30) calendar days after the date on which the action or practice is alleged to have occurred and shall set forth in substantial detail the particulars and other information as may be required by the *[board]* **Administrative Hearing Commission**. *[Following the general provisions of 1 CSR 20-4.010 and special procedures as may be required, the board shall conduct the investigation, hearing, or both, as is necessary to determine whether a discriminatory action or practice has occurred. If the board finds that discrimination has occurred, it shall issue an order requiring the appointing authority or the personnel director, as the case may be, to cease and desist from this practice and to take remedial action as the board may require. If the findings of the board do not support the complaint or charge of discrimination, the board shall issue an order dismissing the appeal.]*

**AUTHORITY:** section[s] 36.060, CCS for SCS for HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010 and section 36.070, RSMo [Supp. 1997] 2000. Original rule filed July 9, 1947,

effective July 19, 1947. For intervening history, please consult the **Code of State Regulations**. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. Amended: Filed Aug. 27, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Bill Miller, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m., November 9, 2010, in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.

**Title 1—OFFICE OF ADMINISTRATION**  
**Division 20—Personnel Advisory Board and Division of Personnel**  
**Chapter 4—Appeals, Investigations, Hearings and Grievances**

**PROPOSED AMENDMENT**

**1 CSR 20-4.010 Appeals.** The Personnel Advisory Board is deleting references to its authority to conduct hearings and procedures developed for hearings before the board throughout the rule.

**PURPOSE:** This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

(1) Appeals of examination applicants and employees are provided under the following circumstances:

(A) Rejection of Examination Applications. An applicant whose request for admission to any examination has been rejected by the director may appeal by filing the appeal with the *[board]* **Administrative Hearing Commission** in writing within fifteen (15) days of the mailing of the notice of rejection by the director and in any event before the holding of the examination. The *[board's]* **Administrative Hearing Commission's** decision on all matters of fact shall be final. Pending consideration of the appeal, the director shall review the initial determination and shall have discretion to admit the applicant to the examination, but admission shall not constitute the assurance of a passing grade in the rating of education and experience (see section 36.390, RSMo);

(B) Appeal From Examination Ratings. Any applicant who has taken an examination and who feels that s/he has not been dealt with fairly in any phase of the examination process may request that the director review the case. This request for review of any examination must be filed in writing with the director within *[thirty (30)]* **fifteen (15)** days after the date on which notification of the results of the examination was mailed to the applicant. A candidate may appeal the decision of the director in writing to the *[board]* **Administrative Hearing Commission**. This appeal must be filed with the *[board]* **Administrative Hearing Commission** within *[thirty (30)]* **fifteen (15)** days after date on which notification of the decision of the director was mailed to the applicant. *[The board's decision with respect to any changes shall be final and shall be entered in*

*the minutes.] A correction in the ratings shall not affect a certification or appointment which may have already been made from the register;*

(C) Appeals of Removal From Register. An eligible whose name has been removed from a register for any of the reasons specified in section 36.180 or 36.240, RSMo, may appeal to the *[board]* **Administrative Hearing Commission** for reconsideration. This appeal must be filed in writing *[at the office of the board]* **with the Administrative Hearing Commission** within *[thirty (30)]* **fifteen (15)** days after the date on which notification was mailed to the applicant. *[The director shall refer the appeal with all pertinent information to the board. The board after investigation shall make its decision which shall be recorded in the minutes and the eligible shall be notified accordingly by t]*The director shall restore the eligible's name to the register if determined eligible for inclusion by the **Administrative Hearing Commission**; and

(D) Appeals From Dismissal, Demotion, or Suspension. Any regular employee who is dismissed, demoted involuntarily for cause, or suspended for more than five (5) days may appeal in writing by filing the appeal with the *[board on the form prescribed in 1 CSR 20-4.010(3)(A)1.]* **Administrative Hearing Commission** within thirty (30) days after the effective date of the personnel action, setting forth in substance the reasons for claiming that the dismissal, suspension, or demotion was for political, religious, or racial reasons or not for the good of the service. *[Upon appeal, both the appealing employee and appointing authority whose action is reviewed shall have the right to be heard and to present evidence at a hearing which, at the request of the appealing employee, shall be public. At the hearing of the appeals, rules commonly controlling the techniques of presenting relevant, competent, and material evidence shall not apply. After the hearing and consideration of evidence for and against a suspension or demotion, the board shall approve or disapprove the action and in the event of a disapproval, the board shall order the reinstatement of the employee to the classification, pay range, and increment formerly held and payment to the employee of such salary as had been lost by reason of suspension or demotion. After the hearing and consideration of the evidence for and against a dismissal, the board shall approve or disapprove this action and may make any one (1) of the following appropriate orders:*

1. Order the reinstatement of the employee to the classification, pay range, and increment formerly held and the payment to the employee part or all of such salary as had been lost by reason of the dismissal;

2. Sustain the dismissal of the employee, unless the board finds that the dismissal was based upon political, social, or religious reasons, in which case it shall order the reinstatement of the employee to the classification, pay range, and increment formerly held and the payment to the employee of such salary as had been lost by reason of his/her dismissal; or

3. Except as provided in this rule, the board—

A. May sustain the dismissal but may order the director to recognize re-employment rights for the dismissed employee under 1 CSR 20-3.030(6) in an appropriate class(es); or

B. May take steps to effect the transfer of the employee to a comparable classification, pay range, and increment in another location, division, or department (see section 36.390, RSMo).

(2) *Authority in the Conduct of Investigations and Hearings. In connection with the review of an appeal or for any other purpose necessary to determine the adherence to and effect of the law and these rules, the board and the director may conduct such investigations as are necessary. Any investigation involving the production of records or reports by a*

*division shall be conducted in such manner as to cause the least possible disruption or inconvenience to the division in the conduct of its regular work. The board, each member of the board, and the director shall have power to administer oath, subpoena witnesses, and compel the production of books and papers pertinent to any investigation or hearing authorized by this law. Any person who shall fail to appear in response to a subpoena or to answer any question or to produce any books or papers pertinent to any such investigation or hearing or who shall knowingly give false testimony shall be guilty of a misdemeanor (see section 36.400, RSMo).*

(3) *Appeals Must Be Submitted and Hearings Conducted Following the Procedures and Guides Provided in this Rule.*

(A) *Appeal submission and preparation for hearing are governed by the following provisions:*

1. *Appeals shall be written. The appeal may be filed by fax, by mail, or by other delivery to the board's office. The written appeal must provide substantially the following information: appellant's name; appointing authority and agency; the type of disciplinary action appealed; the effective date of the disciplinary action; the appellant's reason for appealing the disciplinary action; the appellant's response to the reasons given by the appointing authority; names of witnesses to be subpoenaed if a hearing is granted; a detailed description of any books, papers, or records to be subpoenaed, along with their location, and a statement of the reasons that the items are needed for the hearing; the name, address, telephone number, and signature of the appellant's attorney, if any; and the appellant's signed acknowledgement and certification of truth for the information supplied in the written appeal;*

2. *The appellant may file the appeal on the form for appeal prescribed by the board. The information required for completion of that form shall be deemed sufficient to satisfy the requirement for a written appeal. The board will provide to the appellant or to the appointing authority, on request, a copy of the current form for appeal. The appointing authority shall deliver a copy of the form to an employee receiving any appealable disciplinary action. The completed form or other written appeal must be received at the office of the board within thirty (30) days after the effective date of the disciplinary action appealed. A copy of the appellant's contentions set out in the appeal will be furnished to the appointing authority;*

3. *A party may file a document by—*

A. *Registered or certified mail. A document filed by registered or certified mail is deemed filed on the date that it is delivered to and received by the board;*

B. *Electronic facsimile transmission (fax). A document filed by fax is deemed filed at the time the board receives a fax of the complete document, provided that the original of the document is sent to the board and received within ten (10) business days of the fax. If a document arrives by fax after 5:00 p.m. and before 12:00 midnight or on a Saturday, Sunday, or legal holiday, it is filed on the board's next business day, unless the board orders otherwise;*

(I) *The time controlling when a fax arrives at the board's office is the board's fax machine's journal;*

(II) *The person fax filing a document bears the risk of loss in transmission, nonreceipt, or illegibility. If the document is not received or is materially illegible, the document is deemed not filed and totally null and void for all purposes;*

(III) *Any party or attorney who lists a fax number on a letterhead or pleading in the case file or in a telephone or professional directory or otherwise shall be deemed to have consented to receive service of documents by fax from the*



board or any other party or attorney; or

C. Any other method. A document filed by any method other than registered mail, certified mail, or fax is deemed filed on the date the board receives the document in its office;

4. A party filing by fax shall—

A. Notify the board in advance, if possible, of its intention to file the document by fax;

B. Fax the document to the board's dedicated fax number;

C. Fax the document, if possible, to all other parties having electronic facsimile equipment. If unable to fax, a party shall notify all other parties of its intention to file the document by fax. The notice need not be in writing. A good faith attempt at compliance with this notice requirement shall satisfy the requirements of this subparagraph. This subparagraph does not apply to fax filing of the original appeal;

D. Send the original signed document to the board;

E. Certify in the documents—

(I) The method of notice used to fulfill the requirements of subparagraph (3)(A)4.C. of this rule; and

(II) Compliance with the requirements of subparagraph (3)(A)4.D. of this rule; and

F. Send a copy of the document to all other parties except when filing the original appeal;

5. Appellants may represent themselves and handle their own cases but shall have the right to be represented by duly licensed attorneys. A party to an appeal cannot be represented by anyone other than a duly licensed attorney except that the appointing authority may appear by an employee in the agency. If either party intends to employ and be represented by an attorney, that party promptly shall notify the Personnel Advisory Board of the name and address of his/her attorney;

6. Either party may request a subpoena for a witness at a deposition or the hearing and a subpoena duces tecum (documents) for a deposition (related to the witness being deposed) or subpoena duces tecum for the hearing;

A. A subpoena duces tecum must be requested sufficiently in advance so that it can be received from the board and served by the requesting party at least thirty (30) days in advance of the deposition or the hearing. Any subpoena duces tecum for the hearing requested and served more than sixty (60) days in advance of the hearing shall be due two (2) weeks prior to the hearing date and may be provided to the requesting party by mail rather than in person;

B. A subpoena for a witness to a deposition with no accompanying subpoena duces tecum must be requested sufficiently in advance and served upon the witness by the requesting party at least seven (7) days in advance of the deposition;

C. A subpoena for a witness to a hearing with no accompanying subpoena duces tecum must be requested sufficiently in advance and served upon the witness by the requesting party at least three (3) days in advance of the hearing.

D. The requesting party shall provide the name and address of any witness subpoenaed. The requesting party shall provide a detailed description of any records to be subpoenaed and a statement of what is intended to be proved by the records. Service of the subpoena is to be effected in accordance with section 536.077, RSMo.

E. A party may contest a subpoena by filing a Motion To Quash Subpoena and shall set out the reasons why the subpoena should be quashed. If the subpoena that is the subject of the Motion To Quash Subpoena was served seven (7) days or less prior to the hearing, a pre-hearing confer-

ence with the hearings officer assigned to the case will be immediately scheduled by the board.

7. Upon the acceptance of an appeal, the appellant and appointing authority or their representatives may meet with the Personnel Advisory Board, at a time and place set by the board for a prehearing conference to determine the facts at issue. At the prehearing conference, both parties may stipulate on mutually agreed matters relevant to the disciplinary action or the appeal may be resolved by agreement of the parties. If, during the prehearing conference, the case is not resolved and the appeal goes forward to a hearing before the Personnel Advisory Board, the board may confine the hearing to the law and facts at issue as stipulated by mutual agreement of the parties to the appeal. All parties are required to provide the board with a current address and telephone number. If the appellant fails to provide the board with a current address and telephone number and cannot be reached to schedule a prehearing conference, or does not participate in the prehearing conference after receiving written notice of the date, time, and location of the prehearing conference, it shall be deemed that the appellant no longer wishes to proceed with the appeal and is withdrawing the appeal;

8. All motions or other pleadings by the parties shall be submitted in writing with a copy served or mailed to the opposing party. Parties to an appeal may amend their pleadings as a matter of course at any time before a responsive pleading is filed and served, or if the pleading is one to which no responsive pleading is required and the action has not been set for hearing, the party may so amend it at any time within thirty (30) days after it is filed. Otherwise, a party may amend a pleading only by leave of the Personnel Advisory Board or by written consent of the adverse party; and leave shall be given freely when justice so requires. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ten (10) days after service of the amended pleading, whichever period may be the longer, unless the Personnel Advisory Board otherwise orders; and

9. Service of filings other than the original appeal:

A. Unless otherwise provided by these rules or by other law, any party to a proceeding before the board or any person who seeks to become a party shall serve upon all attorneys of record and unrepresented parties a copy of any document or item the party files;

B. Methods of service.

(I) A person may service a document on an attorney by:

(a) Delivering it to the attorney;

(b) Leaving it at the attorney's office with a secretary, clerk, or attorney associated with or employed by the attorney served;

(c) Mailing it to the attorney's last known address; or

(d) Facsimile transmitting (faxing) it to the attorney's last known fax number;

C. Any document or item filed shall contain or be accompanied by a certification of how and when the filing party has met the provisions of subparagraph (3)(A)9.A. of this rule; and

D. The requirements of this paragraph shall not apply to an original appeal.

(B) Hearings Procedure. The conduct of hearings before the Personnel Advisory Board is subject to the following provisions:

1. Hearings will be held in the Office of the Personnel Advisory Board in Jefferson City, Missouri, unless a different location is specified by action of the board;

2. If no prehearing conference has been held, the board will make a determination of what questions are at issue based upon the notice of the disciplinary action and the appellant's contentions in the appeal prior to the taking of testimony. The hearing shall be confined to and come within the scope of law and facts that the board has determined to be at issue. The board may exclude evidence which is purely cumulative;

3. The person who imposed the discipline is to attend the hearing. If that person is not the appointing authority, it must be the subordinate to whom authority has been delegated. The person who imposed the discipline does not have to attend the hearing if:

A. The appellant has waived his or her attendance;

B. The parties agree to present his or her testimony by other means such as stipulation, affidavit, or testimony over the telephone or if either party wishes to present the testimony by deposition; or

C. He or she is unable to attend the hearing and the absence of his or her testimony would not unduly prejudice the appellant;

4. If the person who imposed the discipline is unavailable to provide his or her testimony for the hearing and the board determines that not having this testimony unduly prejudices the appellant, then the board may disapprove the appellant's discipline;

5. When the appointing authority is required to appear, he or she is not required to stay for the entire hearing. Rather, the appointing authority must only appear so that the appellant can ask him or her questions;

6. The person conducting the hearing will read a statement citing the appropriate sections of the merit system law applicable to appeals;

7. The person conducting the hearing will read the charges of the appointing authority and the contentions of the appellant. By agreement, these documents may be inserted in the record without reading before commencing the taking of testimony;

8. All witnesses will be sworn or affirmed. When possible, witnesses will stand to be sworn or affirmed;

9. The Personnel Advisory Board, on request of either party or on its own motion, may order that the witnesses be separated so as to preclude any witness, other than the parties and their attorneys, from hearing the testimony of other witnesses. When requested by the appellant, only one (1) person in addition to counsel shall remain in the room to represent the appointing authority;

10. The appointing authority will present his/her case first in appeals brought under section 36.390.5, RSMo, or in an appeal which is a combination of sections 36.390.5 and 105.055, RSMo. The appellant will present his/her case first in appeals brought only under section 105.055, RSMo, or by a regular employee from a non-merit agency that has adopted the provisions for appeals provided in section 36.390.5, RSMo, or a non-merit agency that has neither adopted the provisions for appeals provided in section 36.390.5, RSMo, or adopted substantially similar dismissal procedures as provided for in section 36.390.5, RSMo;

11. The Personnel Advisory Board may take notice of its rules, the class specifications, official records of the Personnel Division, and the pay plan without the necessity of an offer in evidence;

12. The Personnel Advisory Board may fix the total time to be allowed for oral argument;

13. At the hearing, the entire proceedings will be recorded. After the board announces its findings of fact, conclusions of law, and decision and order, or at an earlier time if the board determines that the interest of efficient

administration would be served, a copy of the recording will be made available to either party. The board will not transcribe the recording to written form. The cost of a transcription will be borne by the requesting party. The transcription may be performed by any commercial business or agency selected by the requesting party. The board will forward directly to the selected business or agency a copy of the recording;

14. No rehearing, which includes any post-hearing motion other than a Nunc Pro Tunc, Request for Attorney's Fees, or Motion for Back Pay, shall be granted from a final decision of the Personnel Advisory Board. Should such a post-hearing motion be filed, it shall be deemed denied by the board and no ruling from the board is necessary; however, at any time prior to issuance of the decision, the board may require the production of additional documents and records, the presentation of additional testimony after prior notification to both parties, or both;

15. When the board issues an order dismissing an appeal or its findings of fact, conclusions of law, and decision, that order is a final decision on the merits and may be appealed as provided in Chapter 536, RSMo. A motion for attorney's fees, if any, is due to the board within thirty (30) days of its dismissing an appeal or its findings of fact, conclusions of law, and decision. The filing of a petition for judicial review or the fact that back pay has not been determined does not stay the thirty (30)-day requirement for filing the motion for attorney's fees with the board.

A. A motion for attorney's fees must be in writing and filed with the board and served on the appointing authority. The motion for attorney's fees must contain the following:

(I) A statement that the appellant meets one (1) of the two (2) definitions of "party" set out in Chapter 536, RSMo, including attaching an affidavit regarding the net worth of the appellant;

(II) An allegation that the appointing authority's position was not substantially justified and an explanation supporting that allegation. The fact that the appointing authority lost the appeal to the board does not support a presumption that the dismissal of the appellant was not substantially justified;

(III) The amounts of fees and expenses sought. This statement must be supported with an itemized statement from the attorney and expert witnesses (if any) setting out the actual time expended on the case, including the time spent on different issues in the case. Simply stating "research four (4) hours" is not sufficiently detailed; what was researched must be stated; and

(IV) If the hourly rate requested is more than the statutory rate of seventy-five dollars (\$75), the requesting party must set out what special circumstances justify an award above the statutory rate;

B. Once a timely request for attorney's fees has been filed, the appointing authority must file a written response within thirty (30) days if the appointing authority has any objections to the request, including whether anything in the itemized statement is not sufficiently detailed or the amount of time spent was not reasonable. The appointing authority is not required to file a written response if the appointing authority has no objections to the request, the parties settle the case, or the parties agree to submit the fee's dispute to the board by stipulation; and

C. If the appointing authority has filed a written response setting out his or her objections to the request for attorney's fees, either party may request a hearing on any factual dispute. The board's hearings officer will decide whether a hearing is appropriate;

16. An appeal set for hearing may be continued by the

Personnel Advisory Board for cause deemed sufficient or by consent of both parties to the appeal. However, a continuance will not be granted except for compelling cause or to serve the ends of justice. If an appellant requests and is granted a continuance, the Personnel Advisory Board, in its discretion, may deny the appellant any compensation for that portion of time lost by reason of the continuance made at the request if the appellant's appeal is finally sustained. If an appeal scheduled for hearing is not reached, it shall be reset and given precedence over any subsequent appeal;

17. The finding of the board will be announced in writing subsequent to the hearing. Parties will be notified by letter sent by certified mail. The finding will be made as provided in section 36.390.5, RSMo; and

18. As appropriate and where no specific rule governs the issue, the Personnel Advisory Board will utilize the rules of the civil procedure for guidance.

(C) *Special Hearing Procedures.* In the hearing of appeals from disciplinary actions and in the conduct of other appeals or investigations authorized under these rules or the merit system law, the board or the chairman of the board may delegate responsibility for the conduct of investigations and the hearing of appeals provided under any section of the law to a member of the board or to a hearing officer designated by the board. The hearing officer shall have the power to administer oaths, subpoena witnesses, and compel the production of records pertinent to any hearing or investigation. The hearing officer may take any action in connection with the hearing or investigation which the board itself is authorized to take by law other than making the final decision and appropriate order. When a hearing has been completed, the individual board member or the hearing officer who conducted the hearing shall prepare a summary of the hearing and the evidence and recommend a findings of fact, conclusions of law, decision and appropriate order for approval of the board. The board may adopt such recommendations in whole or in part, require the production of additional testimony, reassign the case for rehearing or may conduct itself a new or additional hearing as is deemed necessary prior to rendering a final decision (see section 36.390, RSMo). Whenever this rule uses the term Personnel Advisory Board or board, the same shall apply to a member of the board or a hearing officer who has been delegated the responsibility to conduct the investigation or hear the appeal.

#### (4) Mediation.

(A) Upon the filing of a request for mediation by both parties, or upon a request for mediation by both parties made at the prehearing telephone conference that establishes the hearing date of a disciplinary appeal, mediation services may be provided by a hearings officer, a board member, or a neutral third party for the purpose of attempting a resolution of the appeal.

(B) The Personnel Advisory Board may order that mediation proceed in a disciplinary case before any further proceeding in such case.

(C) A written application for mediation services should include the case number, the name of each party and a brief explanation of the case.

(D) If the mediator is also a hearings officer or a board member, that hearings officer or board member shall be disqualified from conducting an evidentiary hearing relating to that particular case and shall not make any communication regarding the mediation discussions in the case to any board member or the hearings officer appointed to preside in the case. Further, such a board member shall not vote or otherwise participate in the decision on such a disciplinary appeal.

(E) If necessary, the hearings officer presiding over the

case may stay the case pending mediation. In no event, however, shall mediation take over two (2) months. If a case cannot be resolved in that amount of time, it shall proceed to hearing. The parties, however, are always free to settle an appeal, and the appellant is always free to withdraw the appeal even should mediation efforts fail to resolve an appeal.

(F) Failure to appear and participate in good faith in mediation shall be grounds for sanctions including dismissal or default of the noncompliant party.

(G) Should there be any cost charged by a third party mediator, the cost shall be divided evenly between the parties unless the Personnel Advisory Board orders otherwise.]

**AUTHORITY:** section[s] 36.060, CCS for SCS for HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010 and section 36.070, RSMo 2000. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the *Code of State Regulations*. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. Amended: Filed Aug. 27, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Bill Miller, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m., November 9, 2010, in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.

## Title 1—OFFICE OF ADMINISTRATION Division 20—Personnel Advisory Board and Division of Personnel Chapter 4—Appeals, Investigations, Hearings and Grievances

### PROPOSED AMENDMENT

**1 CSR 20-4.020 Grievance Procedures.** The Personnel Advisory Board is deleting references to its authority to conduct hearings and adding additional provisions to accommodate alternative dispute resolution.

**PURPOSE:** This amendment deletes references to the board's authority to conduct hearings and directs those hearings to the Administrative Hearing Commission, consistent with the changes made to Chapters 36, 105, and 621, RSMo, in CCS SCS HB 1868, Second Regular Session, Ninety-fifth General Assembly, 2010, effective August 28, 2010.

(1) **Grievance Procedure Established.** The settlement of differences within the classified service between management and employees shall be provided through the establishment of an orderly grievance procedure in each division of service subject to the State Personnel Law.

(A) The established grievance procedure in any division of service shall apply to employment conditions and related matters over which the appointing authority has complete or partial jurisdiction and for which redress is not provided by the personnel law, rules, or procedures.

(B) Notwithstanding subsection (A) of this section, an agency may enter into an agreement with a certified bargaining representative that allows for an alternative dispute resolution procedure that a represented employee may elect in lieu of the agency's established grievance procedures or the employee's right to appeal to the Administrative Hearing Commission as provided by the personnel law, rules, or procedures.

(C) Unless an agency has entered into an agreement with a certified bargaining representative that provides otherwise,

[(B) T]the grievance procedure shall not apply in instances where the grievance involves personnel transactions or administrative decisions of the appointing authority for which the personnel law or rules provide a specific appeal to the [Personnel Advisory Board or review by the personnel director.] Administrative Hearing Commission. Because the director of the Division of Personnel is not subject to an established grievance procedure, neither a grievance procedure nor alternative dispute resolution procedure may include provisions for grieving decisions made by the director under authority granted by the personnel law or regulations.

[(C)/(D) The responsibility and authority of appointing authorities to create, promulgate, and enforce operational policies for the efficient and effective operation of the divisions of service is not altered by the ability of employees to use the grievance process to question the application of these policies or to seek clarifications or modifications of them.

(3) Management Responsibility. Each appointing authority shall prepare and submit to the personnel director for review, for the purpose of ascertaining conformance with this rule, formal written procedures for submission of grievances by employees and for prompt and orderly consideration and determination of the grievances by supervisors and administrators. The appointing authority shall be responsible for carrying out the provisions of the grievance procedure.

(A) Unless an agency has entered into an agreement with a certified bargaining representative that provides for an alternative method of resolving grievances which includes subjects for which redress is provided by the personnel law, rules, or procedures, [T]the grievance procedures of each division of service shall distinguish between issues subject to review [by the personnel director or the Personnel Advisory Board] through personnel law, rules, or procedures and other matters subject to the grievance procedure. If there are separate procedures for filing internal complaints of discrimination, sexual harassment, retaliation for grievances, or other matters, these shall also be identified.

(B) The grievance procedure shall include the following minimum provisions:

1. Except where the agency has a separate procedure as stated in subsection (3)(A), or unless the agency has entered into an agreement with a certified bargaining unit representative that provides otherwise, the procedure shall begin with the immediate supervisor and, if not resolved to the satisfaction of the grievant at the beginning or succeeding steps, shall end with the appointing authority;

2. The procedure shall require that the grievance and responses be in written form beginning at the first step, unless agreed to by both parties. A copy of all written responses will be delivered to the grievant. A copy of all written grievances and responses will be filed with the appointing authority or his/her designated representative;

3. The procedure shall include specific time frames for filing and responding to grievances at each step. The procedure may include a method of extending time frames initiated by the grievant or management, or both;

4. The procedure shall include a provision prohibiting retaliation or harassment for filing a grievance and for investigating charges of alleged retaliation or harassment. Each agency must give employees alleging retaliation for grievances an opportunity to address this allegation to a higher level than the alleged incident;

5. The procedure shall permit group as well as individual griev-

ances;

6. The procedure shall allow the grievant reasonable time off from duty for attendance at formal grievance hearings; and

7. The procedure shall include a method for informing all employees of the existence of the grievance procedure and for providing a copy of the grievance procedure and appropriate forms to employees desiring to file a grievance.

*AUTHORITY: section 36.070, RSMo 2000. Original rule filed Dec. 8, 1975, effective Dec. 19, 1975. Amended: Filed Dec. 1, 1992, effective July 8, 1993. Amended: Filed Sept. 16, 2002, effective March 30, 2003. Amended: Filed April 14, 2005, effective Nov. 30, 2005. Emergency amendment filed Aug. 27, 2010, effective Sept. 7, 2010, expires March 5, 2011. Amended: Filed Aug. 27, 2010.*

*PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions approximately twelve thousand eighty dollars (\$12,080) per year in the aggregate.*

*PRIVATE COST: This proposed amendment will cost private entities up to two hundred sixty-nine thousand, seven hundred ninety-three dollars and fifty-nine cents (\$269,793.59) per year in the aggregate.*

*NOTICE OF PUBLIC HEARING AND NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Personnel Advisory Board, Bill Miller, Director of Personnel, PO Box 388, Jefferson City, MO 65102. To be considered, comments must be received by the date of the public hearing. A public hearing is scheduled for 10:00 a.m., November 9, 2010, in Room 500 of the Harry S Truman State Office Building, 301 W. High Street, Jefferson City, MO.*

**FISCAL NOTE  
PUBLIC COST**

- I. Department Title: Office of Administration**  
**Division Title: Personnel Advisory Board and Division of Personnel**  
**Chapter Title: Appeals, Investigations, Hearings and Grievances**

<b>Rule Number and Name:</b>	1 CSR 20-4.020
<b>Type of Rulemaking:</b>	Amendment

**II. SUMMARY OF FISCAL IMPACT**

<b>Affected Agency or Political Subdivision</b>	<b>Estimated Cost of Compliance in the Aggregate</b>
All Agencies Covered by Collective Bargaining Agreements	Approximately \$12,080.31 per year over the life of the rule.

**III. WORKSHEET**

**FEDERAL MEDIATION AND CONCILIATION SERVICE**  
**ARBITRATION COST STATISTICS**  
**FISCAL YEAR 2009**

PER DIEM RATE.....	\$ 886.00
FEE.....	\$ 3,606.02
EXPENSES.....	\$ 420.75
TOTAL CHARGE.....	\$ 4,026.77
CASES LOST BY STATE ENTITY...	3
TOTAL PER YEAR.....	\$12,080.31

**IV. ASSUMPTIONS**

According to the Federal Mediation and Conciliation Service, the average per-diem arbitration rate for Missouri in 2009 was \$886.00 and the average number of days per arbitration was 4.07, resulting in a fee of \$3,606.02, plus average reimbursable expenses of \$420.75 = \$4026.77 per case. The losing party is responsible for paying this amount. For purposes of this fiscal note, the PAB assumes the results of cases going to arbitration would approximate the results of cases litigated through the PAB hearing process. In FY

2008 and FY 2009, of 320 cases resolved, 14 resulted in decisions in favor of the employee, or 4% of all cases.

Approximately 43.7% of state employees are represented by labor organizations.

Historically, approximately 25% of employee disciplinary appeals go to arbitration when it is available.

Based upon these assumptions, of 160 yearly disciplinary appeals, 70 (43.7%) would be eligible to be diverted from the hearing process to arbitration, and three (4%) of those 70 would be resolved in favor of the employee, resulting in an estimated annual cost to state government entities of \$12,080.31. Actual costs may vary.

**FISCAL NOTE  
PRIVATE COST**

- I. Department Title: Office of Administration**  
**Division Title: Personnel Advisory Board and Division of Personnel**  
**Chapter Title: Appeals, Investigations, Hearings and Grievances**

<b>Rule Number and Name:</b>	1 CSR 20-4.020
<b>Type of Rulemaking:</b>	Amendment

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
4-8	Unions representing state government employees	Up to \$269,793.59 per year

**III. WORKSHEET**

**FEDERAL MEDIATION AND CONCILIATION SERVICE**  
**ARBITRATION COST STATISTICS**  
**FISCAL YEAR 2009**

PER DIEM RATE.....	\$ 886.00
FEE.....	\$ 3,606.02
EXPENSES.....	\$ 420.75
TOTAL CHARGE.....	\$ 4,026.77
CASES LOST BY PRIVATE ENTITY...	67
TOTAL PER YEAR.....	\$269,793.59

**IV. ASSUMPTIONS**

According to the Federal Mediation and Conciliation Service, the average per-diem arbitration rate for Missouri in 2009 was \$886.00 and the average number of days per arbitration was 4.07, resulting in a fee of \$3,606.02, plus average reimbursable expenses of \$420.75 = \$4026.77 per case. The losing party is responsible for paying this amount.



For purposes of this fiscal note, the PAB assumes the results of cases going to arbitration would approximate the results of cases litigated through the PAB hearing process. In FY 2008 and FY 2009, of 320 cases resolved, 14 resulted in decisions in favor of the employee, or 4% of all cases.

Approximately 43.7% of state employees are represented by labor organizations.

Historically, approximately 25% of employee disciplinary appeals go to arbitration when it is available.

Based upon these assumptions, of 160 yearly disciplinary appeals, 70 (43.7%) would be eligible to be diverted from the hearing process to arbitration, and 67 (96%) of those 70 would be resolved in favor of the appointing authority, resulting in an estimated annual cost to private entities of \$269,793.59. Actual costs may vary.

**Title 1—OFFICE OF ADMINISTRATION  
Division 50—Missouri Ethics Commission  
Chapter 3—Late Fee**

**PROPOSED AMENDMENT**

**1 CSR 50-3.010 Late Fee.** The commission is amending sections (1)–(6), (8), and (9).

*PURPOSE:* This amendment conforms to the amendment to section 105.963.7, RSMo, in SB 844 passed by the Second Regular Session, Ninety-fifth General Assembly and establishes the procedure by which late fee appeals may be appealed per section 105.963.7, RSMo.

(1) As provided by section 105.963.7, RSMo, candidates, [candidate] committee treasurers, **lobbyists**, or [candidate committee assistant treasurers] **individuals required to file a personal financial disclosure statement with the commission** may make a written appeal of late filing fees assessed by the executive director of the Missouri Ethics Commission (commission) for failure to file a [campaign finance disclosure] report **or statement** in a timely manner.

(2) The written appeal must be filed with the commission within ten (10) days of the receipt of notice of the assessment of the late filing fee from the executive director **and shall set forth in writing the reasons for the appeal, including the facts which are alleged to constitute good cause for the failure to file the report or statement in a timely manner.**

(3) Failure to timely file an appeal **under the requirements of section (2) of this rule** shall waive the right to appeal the late fee assessment in question before the commission.

(4) The sole issue of the appeal shall be whether the individual's failure to file a [campaign finance disclosure] report **or statement** in a timely manner was due to good cause as determined by the commission.

(5) Appeals [shall] **may** be scheduled and conducted **as a written appeal**, by telephone [by the executive director unless a request for an], or in[-] person [appeal is made in writing to] before the executive director. The executive director shall [set] **review** the appeal no later than twenty-five (25) days after receipt of the notice of appeal or as soon as agreed to by both parties. [A] **The commission shall consider the written appeal unless a request for an in-person or telephonic appeal [must be filed with the commission no later than ten (10) days from the date of receipt of notice setting the date of the telephonic appeal] is included in the written appeal filed under section (2).** Appeals conducted in[-] person shall be held at the offices of the Missouri Ethics Commission or at a location determined by the executive director.

(6) The party requesting an appeal of a late fee assessment may be represented by an attorney during any appeal. [At the appeal, the person requesting the appeal and/or the attorney of record may present any facts that show the person's failure to file a campaign finance disclosure report was for good cause as determined by the commission.]

(8) [Individuals requesting an appeal may request one (1) continuance concerning that appeal. All requests for a continuance shall be made in writing, state the factual basis for requesting the continuance, and be signed by the individual making the request. The decision to grant a] **A continuance [shall] may be granted** at the discretion of the executive director.

(9) After the appeal, the executive director shall forward to the commission [his] **a recommendation on the appeal and place the appeal on the agenda for the next regularly-scheduled commission meeting.** The commission shall render a final decision, separately stating their findings. The executive director shall send a copy of the commission's decision [by certified mail] to the individual requesting the appeal and a copy of the commission's decision [by regular mail] to the attorney of record.

*AUTHORITY:* section 105.955.14[(7)](8), RSMo 2000. Original rule filed Oct. 4, 2001, effective April 30, 2002. Emergency amendment filed Aug. 30, 2010, effective Sept. 9, 2010, expires March 7, 2011. Amended: Filed Aug. 30, 2010.

*PUBLIC COST:* This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Ethics Commission, PO Box 1370, Jefferson City, MO 65102. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 6—Wildlife Code: Sport Fishing: Seasons,  
Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.505 Black Bass.** The commission proposes to amend subsections (1)(A) and (1)(C) and paragraphs (4)(A)2. and (4)(A)4. of this rule.

*PURPOSE:* This amendment clarifies the location of the upstream and downstream boundaries of the black bass special management area on the James River. This amendment also corrects the spelling of Scotts Ford.

(1) Daily Limit: Six (6) in the aggregate, including smallmouth bass, largemouth bass, spotted bass, and all black bass hybrids, except:

(A) The daily limit may include no more than one (1) smallmouth bass on the Big Piney River from Slabtown Access to Ross Access, the Eleven Point River from Thomasville Access to the Arkansas line, the Gasconade River from the Highway Y bridge (Pulaski County) to the Highway D bridge (Phelps County), the Jacks Fork River from the Highway 17 bridge to the Highway 106 bridge, the James River from the Hooten Town bridge [Stone County Road 4-90] **(The Loop Road at Route O)** to the [Highway 13] **Highway 413/Highway 265 bridge at Galena**, Joachim Creek from the Highway V bridge to the Highway A bridge (Jefferson County), Osage Fork of the Gasconade River from the Skyline Drive bridge (near Orla in Laclede County) to its confluence with the Gasconade River, and Tennile Creek from the Highway B bridge (Carter County) to its confluence with Cane Creek.

(C) On the Meramec, Big, and Bourbeuse rivers and their tributaries, the daily and possession limit for black bass is twelve (12) in the aggregate and may include no more than six (6) largemouth bass and smallmouth bass in the aggregate, except that the daily limit may include no more than one (1) smallmouth bass on the Big River from Leadwood Access to its confluence with the Meramec River, the Meramec River from Scott/'s Ford to the railroad crossing at Bird's

Nest, and Mineral Fork from the Highway F bridge (Washington County) to its confluence with the Big River.

(4) Length Limits.

(A) Streams: All black bass less than twelve inches (12") in total length must be returned to the water unharmed immediately after being caught from the unimpounded portion of any stream, including Pools 20–26 on the Mississippi River, except as follows:

1. On the Meramec, Big, and Bourbeuse rivers and their tributaries, there is no length limit on spotted (Kentucky) bass.

2. On the Big Piney River from Slabtown Access to Ross Access, the Eleven Point River from Thomasville Access to the Arkansas line, Joachim Creek from the Highway V bridge to the Highway A bridge (Jefferson County), the Meramec River from Scott/'s Ford to the railroad crossing at Bird's Nest, the Big River from Leadwood Access to its confluence with the Meramec River, Mineral Fork from the Highway F bridge (Washington County) to its confluence with the Big River, Osage Fork of the Gasconade River from the Skyline Drive bridge (near Orla in Laclede County) to its confluence with the Gasconade River, and Tenmile Creek from the Highway B bridge (Carter County) to its confluence with Cane Creek, all smallmouth bass less than fifteen inches (15") in total length must be returned to the water unharmed immediately after being caught.

3. On the Jacks Fork River from Highway 17 bridge to Highway 106 bridge and the Gasconade River from Highway Y bridge (Pulaski County) to Highway D bridge (Phelps County), all smallmouth bass less than eighteen inches (18") in total length must be returned to the water unharmed immediately after being caught.

4. On the James River from Hooten Town bridge *[(Stone County Road A-90)] (The Loop Road at Route O)* to *[Highway 13/ Highway 413/Highway 265 bridge at Galena]*, all smallmouth bass and largemouth bass less than fifteen inches (15") must be returned to the water unharmed immediately after being caught.

5. On the Elk River, all black bass less than fifteen inches (15") in total length must be returned to the water unharmed immediately after being caught.

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 6—Wildlife Code: Sport Fishing: Seasons,**  
**Methods, Limits**

**PROPOSED AMENDMENT**

**3 CSR 10-6.535 Trout.** The commission proposes to amend subsections (1)(D), (2)(A), and (4)(D) of this rule.

**PURPOSE:** This amendment corrects the spelling of Scotts Ford.

(1) Daily Limit: Four (4) trout in the aggregate, except:

(D) The daily limit is two (2) trout in: Meramec River and its tributaries, except Maramec Spring Branch, in Crawford and Phelps counties from Highway 8 bridge to Scott/'s Ford; the unimpounded portion of the North Fork of White River and its tributaries in Ozark County from Patrick Bridge to Norfork Lake; and Roubidoux Creek from the elevated utility cable crossing approximately one-half (1/2) mile below the Business I-44 bridge in Waynesville to its confluence with the Gasconade River.

(2) Methods: Pole and line, trotline, throwline, limb line, bank line, or jug line, except as further restricted in this rule.

(A) Only flies and artificial lures may be used when fishing on the waters listed in subsections (4)(C) and (E) of this rule, and on the Meramec River in Crawford and Phelps counties from Highway 8 bridge to Scott/'s Ford, on Dry Fork Creek in Crawford and Phelps counties from the elevated cable crossing to its confluence with the Meramec River, on the Current River from Montauk State Park to Cedar Grove, and on Roubidoux Creek from the elevated utility cable crossing approximately one-half (1/2) mile below the Business I-44 bridge in Waynesville to its confluence with the Gasconade River. Soft plastic baits and natural and scented baits are specifically prohibited.

(4) Length Limits: No length limits, except:

(D) All rainbow trout less than fifteen inches (15") in total length must be released unharmed immediately after being caught on the Meramec River and its tributaries in Crawford and Phelps counties from Highway 8 bridge to Scott/'s Ford, except Maramec Spring Branch; on the unimpounded portion of the North Fork of White River and its tributaries in Ozark County from Patrick Bridge to Norfork Lake; and on the Roubidoux Creek from the elevated utility cable crossing approximately one-half (1/2) mile below the Business I-44 bridge in Waynesville to its confluence with the Gasconade River.

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed June 13, 1994, effective Jan. 1, 1995. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 12—Wildlife Code: Special Regulations for**  
**Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.110 Use of Boats and Motors.** The commission proposes to add subsection (2)(J) and re-letter subsequent subsections of this rule.

**PURPOSE:** This amendment establishes provisions for boat use at Fulton (Truman Lake and Veterans Park Lake). Truman Lake and Veterans Park Lake are managed pursuant to a new Community Assistance Program (CAP) agreement with Fulton (Callaway County).

(2) Boats are prohibited on the following areas:

**(J) Fulton (Truman Lake, Veterans Park Lake)**

[(J)](K) Jackson (Rotary Lake)

[(K)](L) Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Fleming Pond, Scherer Lake, Wyatt Lake)

[(L)](M) James Foundation (Scioto Lake)

[(M)](N) Jefferson City (McKay Park Lake)

[(N)](O) Jennings (Koeneman Park Lake)

[(O)](P) Kirksville (Spur Pond)

[(P)](Q) Kirkwood (Walker Lake)

[(Q)](R) Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)

[(R)](S) Macon County (Fairgrounds Lake)

[(S)](T) Mexico (Kiwanis Lake)

[(T)](U) Mineral Area College (Quarry Pond)

[(U)](V) Mount Vernon (Williams Creek Park Lake)

[(V)](W) Overland (Wild Acres Park Lake)

[(W)](X) Potosi (Roger Bilderback Lake)

[(X)](Y) Rolla (Schuman Park Lake)

[(Y)](Z) St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)

[(Z)](AA) St. Louis City (Benton Park Lake, Carondelet Park-Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)

[(AA)](BB) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Jarville Lake, Suson Park Lakes Nos. 1, 2, and 3, Tilles Park Lake, Veteran's Memorial Park Lake)

[(BB)](CC) Sedalia (Clover Dell Park Lake, Liberty Park Pond)

[(CC)](DD) Taos (Taos Countryside Park Lake)

[(DD)](EE) Tipton (Tipton Park Lake)

[(EE)](FF) University of Missouri (South Farm R-1 Lake)

[(FF)](GG) Watershed Committee of the Ozarks (Valley Water Mill Lake)

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.115 Bullfrogs and Green Frogs.** The commission proposes to add paragraph (1)(A)4. and renumber subsequent paragraphs.

**PURPOSE:** This amendment establishes provisions for harvesting bullfrogs and green frogs at Fulton (Morningside Lake, Truman Lake, and Veterans Park Lake). Morningside Lake, Truman Lake, and Veterans Park Lake are managed pursuant to a new Community Assistance Program (CAP) agreement with Fulton (Callaway County).

(1) Bullfrogs and green frogs may be taken during the statewide season only by hand, hand net, atlatl, gig, bow, snagging, snaring, grabbing, or pole and line except as further restricted by this chapter.

(A) Bows may not be used to take frogs on the following areas:

1. Blue Springs (Lake Remembrance)

2. Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods, A. Perry Phillips Park Lake, Stephens Lake, Twin Lake)

3. Farmington (Giessing Lake, Hager Lake, and Thomas Lake)

**4. Fulton (Morningside Lake, Truman Lake, Veterans Park Lake)**

[(4)](5). Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)

[(5)](6). James Foundation (Scioto Lake)

[(6)](7). Mark Twain National Forest (department-managed portions)

[(7)](8). Mexico (Lakeview Lake, Kiwanis Lake)

[(8)](9). Moberly (Beuth Park Lake, Rothwell Park Lake, Water Works Lake)

[(9)](10). Odessa (Lake Venita)

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.125 Hunting and Trapping.** The commission proposes to add paragraph (1)(B)10. and re-number subsequent paragraphs of this rule.

**PURPOSE:** This amendment establishes provisions for hunting and trapping at Fulton (Morningside Lake, Truman Lake, and Veterans Park Lake). Morningside Lake, Truman Lake, and Veterans Park

*Lake are managed pursuant to a new Community Assistance Program (CAP) agreement with Fulton (Callaway County).*

(1) Hunting, under statewide permits, seasons, methods, and limits, is permitted except as further restricted in this chapter and except for deer and turkey hunting as authorized in the annual *Fall Deer & Turkey Hunting Regulations and Information* booklet published in August and annual *Spring Turkey Hunting Information* booklet published in March, which are incorporated in this *Code* by reference. A printed copy of these booklets can be obtained from the Missouri Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180 and are also available online at [www.missouriconservation.org](http://www.missouriconservation.org). This rule does not incorporate any subsequent amendments or additions.

(B) Hunting is prohibited on the following areas:

1. Thomas S. Baskett Wildlife Research and Education Center
2. Bethany (Old Bethany City Reservoir)
3. Buchanan County (Gasper Landing)
4. California (Proctor Park Lake)
5. Carthage (Kellogg Lake)
6. Columbia (Antimi Lake, Cosmo-Bethel Lake, Lake of the Woods, Twin Lake)
7. Dexter City Lake
8. Farmington (Giessing Lake, Hager Lake, Thomas Lake)
9. Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
10. **Fulton (Morningside Lake, Truman Lake, Veterans Park Lake)**
11. Hamilton City Lake
12. Harrisonville (North Lake)
13. Jackson (Rotary Lake)
14. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Fleming Pond, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
15. James Foundation (Scioto Lake)
16. Jamesport City Lake
17. Kirksville (Spur Pond)
18. Lawson City Lake
19. Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)
20. Macon County (Fairgrounds Lake)
21. Mexico (Lakeview Lake, Kiwanis Lake)
22. Mineral Area College (Quarry Pond)
23. Moberly (Rothwell Park Lake, Water Works Lake)
24. Mount Vernon (Williams Creek Park Lake)
25. Odessa (Lake Venita)
26. Overland (Wild Acres Park Lake)
27. Potosi (Roger Bilderback Lake)
28. Rolla (Schuman Park Lake)
29. St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
30. St. Louis County (Bee Tree Lake, Creve Coeur Lake, Jarville Lake, Simpson Lake, Spanish Lake, Sunfish Lake)
31. Savannah City Lake
32. Sedalia (Clover Dell Park Lake)
33. Sedalia Water Department (Spring Fork Lake)
34. Springfield City Utilities (Lake Springfield)
35. Warrensburg (Lion's Lake)
36. Watershed Committee of the Ozarks (Valley Water Mill Lake)
37. Windsor (Farrington Park Lake)

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 30, 2010.*

*PUBLIC COST: This proposed amendment will not cost state agen-*

*cies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 3—DEPARTMENT OF CONSERVATION  
Division 10—Conservation Commission  
Chapter 12—Wildlife Code: Special Regulations for  
Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.140 Fishing, Daily and Possession Limits.** The commission proposes to eliminate section (7), renumber subsequent sections, amend renumbered sections (7) and (8), add subsections (8)(C) and (M), and re-letter subsequent subsections.

*PURPOSE: This amendment simplifies the code by eliminating a daily limit category and including McCredie and Stephens Lakes elsewhere within the rule. Orphaned text from an earlier change is also removed.*

*[(7) The daily limit for bluegill is five (5) on University of Missouri (McCredie Lake).]*

*[(8)](7) The daily limit for bluegill is ten (10) on [Columbia (Stephens Lake) and] Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8).*

*[(9)](8) The daily limit for fish other than those species listed as endangered in 3 CSR 10-4.111 or defined as game fish is twenty (20) in the aggregate, except on the following lakes where the daily limit is ten (10) in the aggregate, and except for those fish included in section[s] (7) [and (8)] of this rule:*

- (A) Ballwin (New Ballwin Lake, Vlasik Park Lake)
- (B) Fenton (Preslar Lake, Upper Fabick Lake, Westside Lake)
- (C) **Columbia (Stephens Lake)**
- [(C)](D) Ferguson (January-Wabash Lake)
- [(D)](E) Jennings (Koeneman Park Lake)
- [(E)](F) Kirkwood (Walker Lake)
- [(F)](G) Mineral Area College (Quarry Pond)
- [(G)](H) Overland (Wild Acres Park Lake)
- [(H)](I) Potosi (Roger Bilderback Lake)
- [(I)](J) St. Charles (Fountain Lakes Pond, Kluesner Lake, Moore Lake, Skate Park Lake)
- [(J)](K) St. Louis City (Benton Park Lake, Boathouse Lake, Fairgrounds Park Lake, Horseshoe Lake, Hyde Park Lake, Jefferson Lake, Lafayette Park Lake, North Riverfront Park Lake, O'Fallon Park Lake, Willmore Park-North Lake, Willmore Park-South Lake)
- [(K)](L) St. Louis County (Bee Tree Lake, Bellefontaine Park Lake, Creve Coeur Lake, Jarville Lake, Simpson Lake, Spanish Lake, Sunfish Lake, Suson Park Lakes Nos. 1, 2, and 3, Tilles Park Lake, Veteran's Memorial Park Lake)
- (M) **University of Missouri (McCredie Lake)**
- [(L)](N) Wentzville (Community Club Lake)

*[(10)](9) Trout must be returned to the water unharmed immediately after being caught from November 1 through January 31 on the lakes listed below. Trout may not be possessed on these waters during this season.*

- (A) Columbia (Cosmo-Bethel Lake)
- (B) Jackson (Rotary Lake)
- (C) Jefferson City (McKay Park Lake)
- (D) Jennings (Koeneman Park Lake)
- (E) Kirksville (Spur Pond)
- (F) Kirkwood (Walker Lake)
- (G) Mexico (Kiwanis Lake)
- (H) Missouri Western State University (Everyday Pond)
- (I) Overland (Wild Acres Park Lake)
- (J) Sedalia (Liberty Park Pond)
- (K) St. Louis City (Jefferson Lake)
- (L) St. Louis County (Tilles Park Lake)

[(11)](10) No person shall continue to fish for any species after having four (4) trout in possession on the following lakes:

- (A) Ballwin (Vlasis Park Lake)
- (B) Ferguson (January-Wabash Park Lake)
- (C) St. Louis City (Boathouse Lake and O'Fallon Park Lake)
- (D) St. Louis County (Suson Park Lakes Nos. 1, 2, and 3)

[(12)](11) On Missouri Western State University (Everyday Pond), fish must be returned to the water unharmed immediately after being caught except that trout may be taken from February 1 through October 15.

[(13)](12) No person shall continue to fish for any species after having four (4) trout in possession, from February 1 through October 31, on the following lakes:

- (A) Jennings (Koeneman Park Lake)
- (B) Kirkwood (Walker Lake)
- (C) Overland (Wild Acres Park Lake)
- (D) St. Louis City (Jefferson Lake)
- (E) St. Louis County (Tilles Park Lake)

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the **Code of State Regulations**. Amended: Aug. 30, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

### Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 12—Wildlife Code: Special Regulations for Areas Owned by Other Entities

#### PROPOSED AMENDMENT

**3 CSR 10-12.145 Fishing, Length Limits.** The commission proposes to amend paragraph (2)(A)18. of this rule.

**PURPOSE:** This amendment establishes a length limit on largemouth bass on Litz Park Lake in the city of Jackson.

(2) Black bass more than twelve inches (12") but less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught, except as follows:

(A) Black bass less than fifteen inches (15") total length must be returned to the water unharmed immediately after being caught on the following lakes:

1. Arrow Rock State Historic Site (Big Soldier Lake)
2. Bethany (Old Bethany City Reservoir)
3. Blue Springs (Lake Remembrance)
4. Big Oak Tree State Park (Big Oak Lake)
5. Butler City Lake
6. California (Proctor Park Lake)
7. Cameron (Reservoirs Nos. 1, 2, and 3, Grindstone Reservoir)
8. Carthage (Kellogg Lake)
9. Columbia (Stephens Lake)
10. Concordia (Edwin A. Pape Lake)
11. Confederate Memorial State Historic Site lakes
12. Dexter City Lake
13. Hamilton City Lake
14. Harrison County Lake
15. Higginsville City Lake
16. Holden City Lake
17. Iron Mountain City Lake
18. Jackson (**Litz Park Lake**, Rotary Lake)
19. Jackson County (Alex George Lake, Bergan Lake, Bowlin Road Lake, Lake Jacomo, Prairie Lee Lake, Scherer Lake, Tarsney Lake, Wood Lake, Wyatt Lake)
20. Jefferson City (McKay Park Lake)
21. Keytesville (Maxwell Taylor Park Pond)
22. Kirksville (Hazel Creek Lake)
23. Liberty (Fountain Bluff Park Ponds Nos. 1, 2, 3, 4, 5, 6, 7, and 8)
24. Maysville (Willow Brook Lake)
25. Mark Twain National Forest (Fourche Lake, Huzzah Pond, Loggers Lake, McCormack Lake, Noblett Lake, Roby Lake)
26. Mineral Area College (Quarry Pond)
27. Odessa (Lake Venita)
28. Pershing State Park ponds
29. Potosi (Roger Bilderback Lake)
30. Unionville (Lake Mahoney)
31. University of Missouri (Dairy Farm Lake No. 1, McCredie Lake)
32. Warrensburg (Lion's Lake)
33. Watkins Mill State Park Lake
34. Windsor (Farrington Park Lake)

**AUTHORITY:** sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. This rule previously filed as 3 CSR 10-4.116. Original rule filed April 30, 2001, effective Sept. 30, 2001. For intervening history, please consult the **Code of State Regulations**. Amended: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.

**Title 3—DEPARTMENT OF CONSERVATION**  
**Division 10—Conservation Commission**  
**Chapter 12—Wildlife Code: Special Regulations for**  
**Areas Owned by Other Entities**

**PROPOSED AMENDMENT**

**3 CSR 10-12.155 Fishing, Stone Mill Spring Branch.** The commission proposes to amend subsections (1)(A), (B), and (C) of this rule.

*PURPOSE: This amendment clarifies terminal tackle for both the regular and catch-and-release seasons while fishing within Stone Mill Spring Branch, located on U.S. Forest Service land in Pulaski County.*

(1) On Stone Mill Spring Branch:

(A) Fishing is permitted on designated waters during posted hours. Not more than one (1) pole and line may be used by one (1) person at any time. Giggling, snaring, snagging, and the taking of live bait are prohibited. *[Flies, artificial lures, unscented soft plastic baits and natural and scented baits may be used, except in waters posted as restricted to specific baits or lures.]* The use of any foods to attract fish, except when placed on a hook, is prohibited.

(B) *[Trout fishing is permitted from March 1 through October 31.]* From the last Saturday in February through October 31, trout fishing is permitted using flies, artificial lures, unscented soft plastic baits, and natural and scented baits. The daily limit is four (4) trout, and no person shall continue to fish for any species after having four (4) trout in possession. All anglers must have a valid trout permit to possess and transport trout.

(C) *[Trout fishing is permitted from 8:00 a.m. to 4:00 p.m. from November 1 through the last day in February as posted. Only flies and artificial lures may be used, and all] From November 1 through the Friday immediately preceding the last Saturday in February, only flies and artificial lures may be used. All fish must be returned to the water unharmed immediately after being caught[. Fish], and fish may not be possessed on these waters.*

*AUTHORITY: sections 40 and 45 of Art. IV, Mo. Const. and section 252.240, RSMo 2000. Original rule filed June 4, 2004, effective Nov. 30, 2004. Amended: Filed Oct. 2, 2006, effective Feb. 28, 2007. Amended: Filed Aug. 30, 2010.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with Tom A. Draper, Deputy Director, Department of Conservation, PO Box 180, Jefferson City, MO 65102-0180. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 8—DEPARTMENT OF LABOR AND**  
**INDUSTRIAL RELATIONS**  
**Division 30—Division of Labor Standards**  
**Chapter 3—Prevailing Wage Law Rules**

**PROPOSED AMENDMENT**

**8 CSR 30-3.060 Occupational Titles of Work Descriptions.** The

division is amending subsection (8)(C).

*PURPOSE: This amendment revises the work description language of Bricklayers and Stone Mason so that it is the same as that adopted by order of the Labor and Industrial Relations Commission.*

(8) The occupational titles of work descriptions set forth here are as follows:

(C) Bricklayers and Stone Mason—Applies to workers who prepare, lay, set, bed, point, patch, grout, caulk, cut, fit, plumb, align, level, anchor, bolt, or weld brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry. Also, the workers install expansion joint materials in brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry. The work falling within this occupational title of work description includes:

1. The unloading of brick, stone masonry, precast aggregate panels, and all types of artificial or imitation masonry where power equipment and rigging are required;

2. The masonry paving and rip-rapping of all types, with or without mortar;

3. The reinforcing of masonry, including placing, tying, and setting of rods;

4. The application of insulation *[materials in or to masonry walls]* systems and materials, and air and/or vapor barrier systems and materials, by spray, trowel, roller, adhesive, or mechanically fastened in or to all masonry walls;

5. The caulking of abutting masonry openings in masonry walls, expansion joints, and false joints in all types of masonry;

6. The waterproofing of all types of masonry, **which shall include installation and application of air and/or vapor barrier systems and materials by spray, trowel, roller, adhesive, or mechanically fastened;** and

7. The cleaning, tuckpointing, sandblasting, steam cleaning, and Guniting work on all types of masonry;

*AUTHORITY: section 290.240.2, RSMo 2000. Original rule filed Sept. 15, 1992, effective May 6, 1993. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 19, 2010.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Division of Labor Standards, Attn: Carla Buschjost, Director, PO Box 449, Jefferson City, MO 65102-0449. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE**  
**Division 10—Director of Revenue**  
**Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.052 Sale of Ice.** This rule interpreted the sales tax law as it applied to the sale of ice and interpreted and applied sections 144.010 and 144.021, RSMo.

*PURPOSE: This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-103.220 Resale.*



**AUTHORITY:** section 144.270, RSMo 1994. This rule was previously filed as rule no. 45 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 010-22 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Rescinded: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.426 Sales of Aircraft.** This rule interpreted the sales tax law as it applied to sales of aircraft.

**PURPOSE:** This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-110.300 Common Carriers.

**AUTHORITY:** section 144.270, RSMo 1994. S.T. regulation 040-25 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.428 Cigarette and Other Tobacco Products Sales.** This rule interpreted the sales tax law as it applied to cigarette and other tobacco product sales and interpreted and applied section 144.030, RSMo.

**PURPOSE:** This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-103.555 Determining Taxable Gross Receipts.

**AUTHORITY:** section 144.270, RSMo 1994. This rule was previously filed as rule no. 87 Jan. 31, 1974, effective Feb. 15, 1974. S.T. regulation 050-1 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Emergency amendment filed Aug. 18, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Emergency amendment filed Dec. 9, 1994, effective Dec. 26, 1994, expired April 24, 1995. Amended: Filed Aug. 18, 1994, effective Feb. 26, 1995. Rescinded: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.431 Handicraft Items Made by Senior Citizens.** This rule interpreted the sales tax law as it applied to handicraft items made and sold by senior citizens, and interpreted and applied section 144.030.2(24), RSMo.

**PURPOSE:** This rule is being rescinded because it describes procedures the department no longer uses.

**AUTHORITY:** section 144.270, RSMo 1994. Original rule filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Aug. 30, 2010.

**PUBLIC COST:** This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

**PRIVATE COST:** This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

**NOTICE TO SUBMIT COMMENTS:** Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.434 Motor Vehicle and Trailer Defined.** This rule defined the terms motor vehicle and trailer for purposes of the sales tax law and interpreted and applied sections 144.070 and 301.010, RSMo.

*PURPOSE:* This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-103.350 Sales Tax on Motor Vehicles.

*AUTHORITY:* section 144.270, RSMo 1994. This rule was previously filed as rule no. 89 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 070-1 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Aug. 30, 2010.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.436 Manufactured Homes.** This rule interpreted the sales tax law as it applied to mobile homes and interpreted and applied section 144.010 and Chapter 700, RSMo.

*PURPOSE:* This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-103.370 Manufactured Homes.

*AUTHORITY:* section 144.270, RSMo 1994. This rule was previously filed as rule no. 89 Jan. 22, 1973, effective Feb. 1, 1973. S.T. regulation 070-1A was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Jan. 25, 1984, effective May 11, 1984. Emergency amendment filed Aug. 18, 1994, effective Aug. 28, 1994, expired Dec. 25, 1994. Emergency amendment filed Dec. 9, 1994, effective Dec. 26, 1994, expired April 24, 1995. Amended: Filed Aug. 18, 1994, effective Feb. 26, 1995. Rescinded: Filed Aug. 30, 2010.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.438 Tangible Personal Property Mounted on Motor Vehicles.** This rule interpreted the sales tax law as it applied to the sale of tangible personal property mounted on motor vehicles and interpreted and applied section 144.030, RSMo.

*PURPOSE:* This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-III.010 Manufacturing Machinery and Equipment Exemptions, as Defined in Section 144.030, RSMo.

*AUTHORITY:* section 144.270, RSMo 1994. S.T. regulation 070-2 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Amended: Filed Sept. 7, 1984, effective Jan. 12, 1985. Rescinded: Filed Aug. 30, 2010.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.443 Motor Vehicle Leasing Divisions.** This rule established procedures for the proper collection and allocation of state, city and county taxes with respect to divisions of companies operating as motor vehicle leasing companies and interpreted and applied section 144.070, RSMo.

*PURPOSE:* This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-103.350 Sales Tax on Motor Vehicles.

*AUTHORITY:* sections 144.070.7 and 144.270, RSMo 1994. Original rule filed May 5, 1978, effective Sept. 12, 1978. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Aug. 30, 2010.

*PUBLIC COST:* This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.

*PRIVATE COST:* This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.

*NOTICE TO SUBMIT COMMENTS:* Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the *Missouri Register*. No public hearing is scheduled.

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.444 Collection of Tax on Vehicles.** This rule interpreted the sales tax law as it applied to the collection and payment of sales tax on motor vehicles, over-the-road trailers and mobile homes and interpreted and applied sections 144.010 and 144.070, RSMo.

*PURPOSE: This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-103.350 Sales Tax on Motor Vehicles.*

*AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 070-5 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Aug. 30, 2010.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.446 Motor Vehicle Leasing Companies.** This rule interpreted the sales tax law as it applied to the motor vehicle leasing option and interpreted and applied section 144.070.5.-144.070.6., RSMo.

*PURPOSE: This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-103.350 Sales Tax on Motor Vehicles.*

*AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 070-6 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Aug. 30, 2010.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.490 Misuse of Sales Tax Data by Cities.** This rule interpreted the sales tax law as it applied to the misuse of sales tax data by cities.

*PURPOSE: This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-42.100 Monthly Sales Tax Distribution Report.*

*AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 122-1 was last filed Oct. 28, 1975, effective Nov. 7, 1975. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Aug. 30, 2010.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 12—DEPARTMENT OF REVENUE  
Division 10—Director of Revenue  
Chapter 3—State Sales Tax**

**PROPOSED RESCISSION**

**12 CSR 10-3.496 Seller Timely Payment Discount.** This rule illustrated when a seller is entitled to the timely payment discount.

*PURPOSE: This rule is being rescinded because it has been incorporated in or superseded by 12 CSR 10-104.030 Filing Requirements.*

*AUTHORITY: section 144.270, RSMo 1994. S.T. regulation 140-1 was last filed Dec. 31, 1975, effective Jan. 10, 1976. Refiled March 30, 1976. Amended: Filed Aug. 13, 1980, effective Jan. 1, 1981. Rescinded: Filed Aug. 30, 2010.*

*PUBLIC COST: This proposed rescission will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed rescission will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to the proposed rescission with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2210—State Board of Optometry  
Chapter 2—General Rules**

**PROPOSED AMENDMENT**

**20 CSR 2210-2.030 License Renewal.** The board is proposing to amend section (1), add a new section (4), renumber the remaining sections accordingly, amend new section (5), amend new paragraphs (11)(C)3. and (11)(C)7., amend new subsections (11)(E)–(F), and renumber the remaining subsections accordingly.

*PURPOSE: This amendment requires licensed optometrists to notify the board when a change of name or telephone number occurs and clarifies license renewal and continuing education requirements.*

(1) Every licensed optometrist shall notify the board of any change of **legal name**, mailing address, and **telephone number** within thirty (30) days.

**(4) Failure of the licensee to receive a renewal application shall not relieve the licensee of the obligation to renew the license and pay the required fee prior to the license expiration date. Deposit of the renewal fee by the board or the Division of Professional Registration does not indicate acceptance of the renewal application or that any licensing requirements have been fulfilled.**

*[(4)](5)* A period of sixty (60) days grace is established following the date by which every optometrist must renew his/her license. The board shall cause a license to be renewed if the renewal is sought and fees are paid before the expiration of the grace period.

**(A)** No license shall be renewed after the grace period unless, within five (5) years, the holder submits a **properly-completed reactivation application form**, the required reactivation fee, plus satisfactory evidence of his/her attendance, for a minimum of *[twenty-four (24)]* **forty-eight (48)** hours, at continuing education programs approved by the board. *[Effective November 1, 2008, the minimum number of continuing education hours required for renewal of an expired license sought after the grace period and before the expiration of the five (5) year period shall be forty-eight (48).]*

*[(5)](6)* Effective with the two (2)-year continuing education reporting period beginning on November 1, 2008, every optometrist currently licensed in Missouri shall obtain a minimum of thirty-two (32) hours of approved continuing education (herein "C.E." credits) relevant to the practice of optometry.

*[(6)](7)* The two (2)-year continuing education reporting period shall begin on November 1 and end on October 31. C.E. credits earned after October 31 of the second year of the reporting period shall apply to the next reporting period unless the licensee pays the continuing education penalty fee. Payment of the continuing education penalty fee will provide a licensee with the ability to earn C.E. credits on or after November 1 and before December 31 and apply any needed C.E. credits to the prior reporting period. If the licensee pays the continuing education penalty fee for C.E. credits earned late, those credits shall not be applied to the next reporting period. A renewal license will not be issued until all renewal requirements have been met.

*[(7)](8)* Licensees shall report the number of C.E. credits earned during the continuing education reporting period on the renewal form provided by the board. The licensee shall not submit the record of C.E. attendance to the board except in the case of a board audit.

*[(8)](9)* Every licensed optometrist shall maintain full and complete records of all approved C.E. credits earned for the two (2) previous reporting periods in addition to the current reporting period. The records shall document the titles of the courses taken, dates, locations, course sponsors, and number of hours earned. The board may conduct an audit of licensees to verify compliance with the continuing education requirement. Licensees shall assist the board in its audit by providing timely and complete responses to the board's inquiries.

*[(9)](10)* Violation of any provision of this rule shall be deemed by the board to constitute misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or unprofessional conduct in the performance of the functions or duties of an optometrist depending on the licensee's conduct. In addition, a licensee who has failed to complete and report in a timely fashion the required thirty-two (32) hours of continuing education and engages in the active practice of optometry without the express written authority of the board shall be deemed to have engaged in the unauthorized practice of optometry.

*[(10)](11)* The following guidelines govern the attendance of educational optometric programs for license renewal:

**(A)** Each speaker, lecturer, or other participant in the presentation of the continuing education program must be recognized as possessing the requisite qualifications and as being expert in his/her field. The board will determine whether a speaker, lecturer, or other person meets the requirements of this section;

**(B)** Instruction courses sponsored for commercial purposes by individuals or institutions or programs in which the speaker advertises or urges the use of any particular ophthalmic product or appliance generally shall not be recognized for educational credit. Exceptions shall be made if the procedure in subsection *[(10)](11)(D)* is followed and the majority of the board votes to recognize the instruction course or program;

**(C)** Educational programs that currently are approved, except as noted in subsection *[(10)](11)(B)*, as meeting the minimum standards, include the following:

1. Educational meetings of the American Optometric Association (AOA);

2. Educational meetings of the National Optometric Association (NOA);

3. Educational meetings of the Missouri Optometric Association or any other state or regional optometric association affiliated with the American Optometric Association. **This excludes local society meetings unless the courses are Council on Optometric Practitioner Education (COPE)-approved or the course receives prior state board approval;**

4. Scientific sections and continuing education courses of the American Academy of Optometry;

5. Postgraduate courses offered at any accredited college of optometry;

6. Educational meetings of the Southern Council of Optometrists;

7. Educational meetings approved by the *[Council on Optometric Practitioner Education (COPE)]*;

8. Educational meetings of the North Central States Optometric Council;

9. Educational meetings of the Heart of America Optometric Congress and the Heart of America Contact Lens Society;

10. Educational meetings of the College of Optometrists in Vision Development;

11. Educational meetings of the Optometric Extension Program; and

12. Optometric related meetings of any accredited school of medicine/.

**(D)** With the exception of any of the previously mentioned educational organizations, any other regularly organized group of optometrists that wishes to sponsor an educational program to meet

the standard for license renewal in Missouri shall submit one (1) copy of the program schedule and outline to the board's executive director not fewer than thirty (30) days prior to the date of the program and shall pay the continuing education sponsor fee. The outline must indicate the program's subject matter, the number of hours required for its presentation, and the identity and qualifications of the speakers and instructors. The board shall review the schedule and outline. If the program meets the standards set out in subsections ~~[(10)](11)~~(A)–(B), the board may grant approval. The board will not consider requests for approval of any program submitted following the meeting;

**(E) Individuals who obtain a license by endorsement during the second year of a two (2)-year reporting period will only be required to obtain sixteen (16) hours of continuing education in order to renew the license for the initial license renewal. Individuals who obtain a license by endorsement during the first year of a two (2)-year reporting period will be required to obtain thirty-two (32) hours of board-approved continuing education in order to renew the license for the initial license renewal;**

**(F) Individuals who take and pass Part III of the National Board of Examiners in Optometry (NBEO) examination in the first year of a two (2)-year reporting period are to be credited for sixteen (16) hours of continuing education towards his/her initial renewal. Individuals who take and pass Part III of the NBEO examination in the second year of a two (2)-year reporting period shall be exempt from the continuing education requirement for his/her initial renewal;**

~~[(E)]~~**(G)** Licensees who present Council on Optometric Practitioner Education (COPE)-approved continuing education will be allowed one (1) hour of continuing education credit for each hour of the continuing education presented. Each COPE numbered course may be used one (1) time for continuing education credit during the reporting period;

~~[(F)]~~**(H)** Licensees who are enrolled in a postgraduate residency program accredited by the Council on Optometric Education will receive sixteen (16) hours of continuing education credit to satisfy one (1) year of the two (2)-year reporting period; and

~~[(G)]~~**(I)** The board will consider requests for exemption from the educational requirements only if the request for exemption is filed with the board's executive director and actually approved by the board before the end of the reporting period. The request for exemption must be by sworn affidavit and must clearly set out the reasons asserted for noncompliance, including at least a listing of all other years for which the board has exempted the licensee and a listing of the dates upon which the licensee's reasons for exemption required his/her absence from active practice. In its discretion, the board may refuse to exempt a licensee from the required attendance, notwithstanding the existence of a valid reason, if the board determines that the licensee has or had other reasonable opportunities to meet the requirements of this rule.

~~[(11)]~~**(12)** The license renewal period shall commence on November 1 and end on October 31 of each even-numbered year.

*AUTHORITY: sections 336.080 and 336.160.1, RSMo Supp. [2007] 2009. This rule originally filed as 4 CSR 210-2.030. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. For intervening history, please consult the Code of State Regulations. Amended: Filed Aug. 27, 2010.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will save private entities approximately one million twenty-eight thousand dollars to two million fifty-six thousand dollars (\$1,028,000–\$2,056,000) biennially for the life of the rule. It is anticipated that the costs will recur for*

*the life of the rule, may vary with inflation, and are expected to increase at the rate projected by the Legislative Oversight Committee.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Board of Optometry, PO Box 1335, Jefferson City, MO 65102, by facsimile at 573-751-8216, or via email at [optometry@pr.mo.gov](mailto:optometry@pr.mo.gov). To be considered, comments must be received within thirty (30) days after publication of this notice in the Missouri Register. No public hearing is scheduled.*

**PRIVATE ENTITY FISCAL NOTE**

**I. RULE NUMBER**

**Title 20 - Department of Insurance, Financial Institutions and Professional Registration**

**Division 2210 - State Board of Optometry**

**Chapter 2 - General Rules**

**Proposed Amendment - 20 CSR 2210-2.030 License Renewal**

Prepared May 12, 2010 by the Division of Professional Registration

**II. SUMMARY OF FISCAL IMPACT**

**First Year of Implementation of Rule**

Estimate the number of entities by class which would likely be affected by the adoption of the proposed rule:	Classification by type of the business entities which would likely be affected:	Estimated savings of compliance with the rule by affected entities:
1285	Applicants for Initial Licensure Continuing Education Decreased by 16-32 hours per Licensee @ \$50 per hour @ \$800-\$1600	\$1,028,000-\$2,056,000
	<b>Estimated Biennial Cost Savings of Compliance for the Life of the Rule</b>	<b>\$1,028,000-\$2,056,000</b>

**III. WORKSHEET**

See table above.

**IV. ASSUMPTION**

1. The above figures are based on FY13 projections.
2. This amendment will exempt new licensees from part of the continuing education requirements for their first renewal.
3. Applicants will save on travel expenses, however; are not being calculated in this fiscal note due to the various geographic locations of the applicants and the distance they would travel.
4. It is anticipated that the total savings will recur for the life of the rule, may vary with inflation and is expected to increase at the rate projected by the Legislative Oversight Committee.

**T**his section will contain the final text of the rules proposed by agencies. The order of rulemaking is required to contain a citation to the legal authority upon which the order of rulemaking is based; reference to the date and page or pages where the notice of proposed rulemaking was published in the *Missouri Register*; an explanation of any change between the text of the rule as contained in the notice of proposed rulemaking and the text of the rule as finally adopted, together with the reason for any such change; and the full text of any section or subsection of the rule as adopted which has been changed from that contained in the notice of proposed rulemaking. The effective date of the rule shall be not less than thirty (30) days after the date of publication of the revision to the *Code of State Regulations*.

**T**he agency is also required to make a brief summary of the general nature and extent of comments submitted in support of or opposition to the proposed rule and a concise summary of the testimony presented at the hearing, if any, held in connection with the rulemaking, together with a concise summary of the agency's findings with respect to the merits of any such testimony or comments which are opposed in whole or in part to the proposed rule. The ninety (90)-day period during which an agency shall file its order of rulemaking for publication in the *Missouri Register* begins either: 1) after the hearing on the proposed rulemaking is held; or 2) at the end of the time for submission of comments to the agency. During this period, the agency shall file with the secretary of state the order of rulemaking, either putting the proposed rule into effect, with or without further changes, or withdrawing the proposed rule.

## **Title 3—DEPARTMENT OF CONSERVATION Division 10—Conservation Commission Chapter 7—Wildlife Code: Hunting: Seasons, Methods, Limits**

### **ORDER OF RULEMAKING**

By the authority vested in the Conservation Commission under sections 40 and 45 of Art. IV, Mo. Const., the commission amends a rule of the Department of Conservation as follows:

3 CSR 10-7.440 is amended.

This amendment establishes hunting seasons and limits and is excepted by section 536.021, RSMo, from the requirement for filing as a proposed amendment.

The Department of Conservation amended 3 CSR 10-7.440 by establishing seasons and limits for hunting migratory waterfowl during the 2010–2011 seasons.

### **3 CSR 10-7.440 Migratory Game Birds and Waterfowl: Seasons, Limits**

(3) Seasons and limits are as follows:

(F) Waterfowl Zones. The North Zone shall be that portion of the state north of a line running west from the Illinois border at Lock and Dam 25; west on Lincoln County Hwy. N to Mo. Hwy. 79; south on Mo. Hwy. 79 to Mo. Hwy. 47; west on Mo. Hwy. 47 to Interstate Hwy. 70; west on Interstate Hwy. 70 to the Kansas border. The South Zone shall be that portion of Missouri south of a line running west from the Illinois border on Mo. Hwy. 34 to Interstate Hwy. 55; south

on Interstate Hwy. 55 to U.S. Hwy. 62; west on U.S. Hwy. 62 to Mo. Hwy. 53; north on Mo. Hwy. 53 to Mo. Hwy. 51; north on Mo. Hwy. 51 to U.S. Hwy. 60; west on U.S. Hwy. 60 to Mo. Hwy. 21; north on Mo. Hwy. 21 to Mo. Hwy. 72; west on Mo. Hwy. 72 to Mo. Hwy. 32; west on Mo. Hwy. 32 to U.S. Hwy. 65; north on U.S. Hwy. 65 to U.S. Hwy. 54; west on U.S. Hwy. 54 to the Kansas border. The Middle Zone shall be the remainder of Missouri.

(G) Ducks and coots may be taken from one-half (1/2) hour before sunrise to sunset as follows:

1. Ducks and coots may be taken from October 30, 2010, through December 28, 2010, in the North Zone, from November 6, 2010, through January 4, 2011, in the Middle Zone, and from November 25, 2010, through January 23, 2011, in the South Zone.

2. Duck and coot limits are as follows: The daily bag limit of ducks is six (6) and may include no more than four (4) mallards (no more than two (2) of which may be female), three (3) wood ducks, two (2) redheads, two (2) hooded mergansers, two (2) scaup, two (2) pintails, one (1) mottled duck, one (1) canvasback, and one (1) black duck. The possession limit is twelve (12), including no more than eight (8) mallards (no more than four (4) of which may be female), six (6) wood ducks, four (4) redheads, four (4) hooded mergansers, four (4) scaup, four (4) pintails, two (2) mottled ducks, two (2) canvasbacks, and two (2) black ducks. The daily limit of coots is fifteen (15) and the possession limit for coots is thirty (30).

(H) Geese may be taken from one-half (1/2) hour before sunrise to sunset as follows:

1. Blue, snow, and Ross's geese may be taken from October 30, 2010, through January 31, 2011, statewide.

2. White-fronted geese may be taken from November 25, 2010, through January 31, 2011, statewide.

3. Canada geese and brant may be taken from October 2, 2010, through October 10, 2010, and November 25, 2010, through January 31, 2011, statewide.

4. Goose limits—The daily bag limit is three (3) Canada geese, twenty (20) blue, snow, or Ross's geese, two (2) white-fronted geese, and one (1) brant, statewide. The possession limit is six (6) Canada geese, four (4) white-fronted geese, and two (2) brant. There is no possession limit for blue, snow, and Ross's geese.

(I) Ducks, geese, brant, and coots may be taken by youth hunters fifteen (15) years of age or younger from October 23, 2010, through October 24, 2010, in the North Zone, from October 23, 2010, through October 24, 2010, in the Middle Zone, and from November 20, 2010, through November 21, 2010, in the South Zone. The daily and possession limits for ducks, geese, and coots are the same as during the regular duck, goose, and coot hunting seasons. Any person fifteen (15) years or younger may participate in the youth waterfowl hunting days without permit provided they are in the immediate presence of an adult eighteen (18) years of age or older. If the youth hunter does not possess a hunter education certificate card, the adult must be properly licensed (i.e., must meet any permit requirements that allows small game hunting) and have in his/her possession a valid hunter education certificate card unless they were born before January 1, 1967. The adult may not hunt ducks but may participate in other seasons that are open on the special youth days.

(J) Shells possessed or used while hunting waterfowl and coots statewide, and for other wildlife as designated by posting on public areas, must be loaded with material approved as nontoxic by the United States Fish and Wildlife Service.

(K) Persons who possess a valid Conservation Order permit may chase, pursue, and take blue, snow, and Ross's geese from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset from February 1, 2011, through April 30, 2011. Any other regulation notwithstanding, methods for the taking of blue, snow, and Ross's geese include using shotguns capable of holding more than three (3) shells, and with the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations



of bird calls or sounds. An exception to the above permit requirement includes any person fifteen (15) years of age or younger, provided either 1) s/he is in the immediate presence of a properly licensed adult (must possess a Conservation Order permit) who is eighteen (18) years of age or older and has in his/her possession a valid hunter education certificate card, or was born before January 1, 1967, or 2) s/he possesses a valid hunter education certificate card. A daily bag limit will not be in effect February 1, 2011, through April 30, 2011 (See 3 CSR 10-5.436 and 3 CSR 10-5.567 for Conservation Order permit requirements).

(L) Migratory birds may be taken by hunters with birds of prey as follows: (See 3 CSR 10-9.442 for additional provisions about falconry including season lengths and limits for wildlife other than migratory birds. See 3 CSR 10-9.440 for falconry permit requirements).

1. Doves may be taken from September 1 to December 16 from one-half (1/2) hour before sunrise to sunset. Daily limit: three (3) doves; possession limit: six (6) doves, except that any waterfowl taken by falconers must be included within these limits.

2. Ducks, mergansers, and coots may be taken from sunrise to sunset from September 11, 2010, through September 26, 2010, statewide, and from one-half (1/2) hour before sunrise to sunset as follows: in the North Zone, October 23, 2010, through October 24, 2010, October 30, 2010, through December 28, 2010, and February 10, 2011, through March 10, 2011; in the Middle Zone, October 23, 2010, through October 24, 2010, November 6, 2010, through January 4, 2011, and February 10, 2011, through March 10, 2011; and, in the South Zone, November 20, 2010, through November 21, 2010, November 25, 2010, through January 23, 2011, and February 10, 2011, through March 10, 2011. Daily limit: three (3) birds singly or in the aggregate, including doves; possession limit: six (6) birds singly or in the aggregate, including doves.

**SUMMARY OF PUBLIC COMMENT:** Seasons and limits are exempted from the requirement of filing as a proposed amendment under section 536.021, RSMo.

This amendment filed August 20, 2010, effective **September 1, 2010**.

**Title 6—DEPARTMENT OF HIGHER EDUCATION  
Division 250—University of Missouri  
Chapter 11—Administration of Missouri Fertilizer Law**

**ORDER OF RULEMAKING**

By the authority vested in the director of the Missouri Agricultural Experiment Station under section 266.545, RSMo, the director adopts a rule as follows:

**6 CSR 250-11.041** Inspection Fee on Manipulated Animal or Vegetable Manure Fertilizers **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 17, 2010 (35 MoReg 757-761). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** One (1) letter of comment was received.

**COMMENT:** The Missouri Pork Association, Missouri Cattlemen's Association, Missouri Egg Council, The Poultry Federation, and the Missouri Dairy Association commented in a letter. The comment letter states:

1. That the authority to promulgate rules is vested solely with the

Fertilizer and Ag Lime Advisory Council;

2. Proposed language does not conform to the legislative intent of House Bill 734;

3. That "manipulated manure fertilizers shall be guaranteed." This is contrary to provisions of the Missouri Fertilizer Law that only require a guaranteed analysis for fertilizers that are "sold." Manipulated manures that are given away or not sold are not required to be "guaranteed"; and

4. A general disbelief in the calculation of the fee reduction as a result of implementation of this change to fees for manipulated manure fertilizers.

**RESPONSE:**

1. Authority to promulgate rules for the efficient administration and enforcement of sections 266.291 to 266.351, RSMo, is vested with the director in "section 266.341, RSMo, Powers of Director" with approval of a majority of the Fertilizer Advisory Council members prior to submission to the secretary of state.

2. The language in this rule mirrors the language of the legislation exactly and precisely without change.

3. The term "fertilizer," as defined in section 266.291(4), RSMo, includes any organic or inorganic material of natural or synthetic origin which is added to soil, soil mixtures, or solution to supplement nutrients and is claimed to contain one or more essential plant nutrients. The term "fertilizer" does not include unmanipulated animal and vegetable manure and agricultural liming materials used to reduce soil acidity. Section 266.291(6), RSMo, "Sale," "sold," and "sells" include exchanges and consignments for sale and means any transfer or barter. Manures that do not carry a guarantee are not subject to inspection fee; however, if the producer seeks to provide nutrient content information, they are declaring the product a fertilizer subject to the appropriate fee.

4. Comment failed to review the attached revised data table calculating current inspection fees and new inspection fee at the rate per percent nitrogen content per ton. Table contains reported tonnage information from the 2008-09 fertilizer tonnage reporting period. The estimate on fee reduction if the new fee structure was in place for this period, would have been a decrease of forty-eight thousand, six hundred eighty-two dollars and twenty-nine cents (-\$48,682.29).

There were no changes made to the wording of the rule based on the comments received.

**Title 6—DEPARTMENT OF HIGHER EDUCATION  
Division 250—University of Missouri  
Chapter 11—Administration of Missouri Fertilizer Law**

**ORDER OF RULEMAKING**

By the authority vested in the director of the Missouri Agricultural Experiment Station under section 266.545, RSMo, the director adopts a rule as follows:

**6 CSR 250-11.042** Guaranteed Analysis When Tonnage Inspection Fee is Based on Product Constituent **is adopted**.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 17, 2010 (35 MoReg 762-763). No changes have been made in the text of the proposed rule, so it is not reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

**SUMMARY OF COMMENTS:** One (1) letter of comment was received.

**COMMENT:** The Missouri Pork Association, Missouri Cattlemen's Association, Missouri Egg Council, The Poultry Federation, and the

Missouri Dairy Association commented in a letter. The comment letter states:

“The proposed amendment to 6 CSR 250-11.042 requires distributors of manipulated manures to guarantee a nutrient value within 150% of its analysis. Under the Missouri Fertilizer Law, if a guaranteed fertilizer does not meet its guaranteed analysis, the distributor is subject to a monetary penalty. Therefore, distributors must be careful to not over-estimate a fertilizer’s nutrient content for fear of being fined. This proposed rule places livestock producers in jeopardy of violating their guaranteed analysis should they choose to be prudent and guarantee a lesser value to ensure compliance with the guaranteed value.

The purpose of the Missouri Fertilizer Law is to protect consumers by ensuring that when they buy nutrients they are getting a product that test at or above the guaranteed analysis. In other words, the law encourages fertilizer distributors to under-guarantee their product to avoid penalties. This proposed rule boxes in distributors of manure fertilizers. It imposes penalties or additional fees when the analysis is too low or too high. Since the law encourages the under-guarantee of fertilizers, it should not impose burdens or additional fees when a distributor tries to follow the intent of the law and avoid penalties or providing a deficient product. The bottom line is the advisory council should not dictate how a distributor guarantees its manure.

Nowhere in the advisory council’s regulations is there a requirement that a distributor of inorganic fertilizer is charged additional fees or taxes for under-guaranteeing its product. This proposed change imposing additional fees on manure fertilizers clearly singles out livestock producers for unequal treatment on how they must guarantee their product. This proposed rule violates the constitutional right to equal protection by providing disparate treatment of distributors of manures and commercial fertilizers.

Our memberships ask that the advisory council withdraw the proposed amendments and refile the rule in accordance with the comments described herein.”

RESPONSE: The investigational allowance for deficiency is described in section 266.343, RSMo, Penalties for Deficiency in Fertilizer. Tolerances for deficiency are defined much more strictly than the generous fifty percent (50%) outlined in this rule. Drafters of the legislative language placed in section 266.331, RSMo, sought to create and did create the first class of fertilizer on which the inspection fee was based on the guaranteed analysis of the product and not simply on the tonnage of product sold. This rule was developed to ensure that the producer would provide the consuming public with accurate information about the product being utilized, so the consumer can avoid over application of nutrients which could cause significant damage to property and the waters of the state, when a producer intentionally under-guarantees a product to avoid paying the inspection fees. There were no changes to the wording of this rule based on the comments received.

**Title 9—DEPARTMENT OF MENTAL HEALTH  
Division 30—Certification Standards  
Chapter 4—Mental Health Programs**

**ORDER OF RULEMAKING**

By the authority vested in the director of the Department of Mental Health under section 630.050, RSMo Supp. 2009 and sections 630.655 and 632.050, RSMo 2000, the director amends a rule as follows:

9 CSR 30-4.034 is amended.

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on June 15, 2010 (35 MoReg 935). A change has been made in the text of the proposed amendment. The section with the change is reprinted here. This pro-

posed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The department received two (2) comments on the proposed amendment.

COMMENT #1: LaRee Harvey of the North Central Missouri Mental Health Center forwarded a comment stating that the emphasis shifted from frequency of service provision determining level of care to type of service provided. LaRee Harvey stated that the upper limit of one (1) community support worker to thirty (30) clients in the proposed amendment may be too few and that thirty-five (35) would be a better number to allow for more flexibility.

RESPONSE: The department notes the proposed amendment increases an upper threshold from one (1) community support worker to twenty (20) clients to an upper threshold of thirty (30) adults. The department disagrees with this comment, and no changes have been made to the rule as a result of this comment.

COMMENT #2: The department made a comment recognizing that an apparent typographical error exists in the rule regarding the number of community support workers. While the second sentence of 9 CSR 30-4.034(3)(A) states that “caseload size should not exceed one (1) community support worker to thirty (30) adults,” the second part of the sentence does not include the word “worker” after “community support.”

RESPONSE AND EXPLANATION OF CHANGE: For clarity, the department is adding the word “worker” to the second part of the sentence.

**9 CSR 30-4.034 Personnel and Staff Development**

(3) The CPR provider shall ensure that an adequate number of appropriately qualified staff is available to support the functions of the program. The department shall prescribe caseload size and supervisory-to-staff ratios.

(A) Caseload size shall vary according to the acuity, symptom complexity, and the needs of the individuals served. However, caseload size should not exceed one (1) community support worker to thirty (30) adults in the rehabilitation level of care and one (1) community support worker to twenty (20) children and youth in the rehabilitation level of care. Should any individual receiving CPR services believe that a community support worker’s caseload size is too large to attend to his or her service needs, that individual or his or her guardian has the right to request an independent review by the CPR program director sufficient to determine the adequacy of the caseload size and to implement an adjustment should one be deemed necessary.

**Title 10—DEPARTMENT OF NATURAL RESOURCES  
Division 10—Air Conservation Commission  
Chapter 2—Air Quality Standards and Air Pollution  
Control Rules Specific to the Kansas City Metropolitan  
Area**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

**10 CSR 10-2.070 Restriction of Emission of Odors is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 17, 2010 (35 MoReg 766). No changes have been made in the proposed rescission, so it is

not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received no written or verbal comments concerning this proposed rescission during the public comment period.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 10—Air Conservation Commission**  
**Chapter 3—Air Pollution Control Rules Specific to the**  
**Outstate Missouri Area**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

**10 CSR 10-3.090** Restriction of Emission of Odors **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 17, 2010 (35 MoReg 766–767). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received no written or verbal comments concerning this proposed rescission during the public comment period.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 10—Air Conservation Commission**  
**Chapter 4—Air Quality Standards and Air Pollution**  
**Control Regulations for the Springfield-Greene County**  
**Area**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

**10 CSR 10-4.070** Restriction of Emission of Odors **is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 17, 2010 (35 MoReg 767). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received no written or verbal comments concerning this proposed rescission during the public comment period.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 10—Air Conservation Commission**  
**Chapter 5—Air Quality Standards and Air Pollution**  
**Control Rules Specific to the St. Louis Metropolitan**  
**Area**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission rescinds a rule as follows:

**10 CSR 10-5.160** Control of Odors in the Ambient Air  
**is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on May 17, 2010 (35 MoReg 767). No changes have been made in the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received no written or verbal comments concerning this proposed rescission during the public comment period.

**Title 10—DEPARTMENT OF NATURAL RESOURCES**  
**Division 10—Air Conservation Commission**  
**Chapter 6—Air Quality Standards, Definitions, Sampling**  
**and Reference Methods and Air Pollution Control**  
**Regulations for the Entire State of Missouri**

**ORDER OF RULEMAKING**

By the authority vested in the Missouri Air Conservation Commission under section 643.050, RSMo 2000, the commission adopts a rule as follows:

**10 CSR 10-6.165** is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 17, 2010 (35 MoReg 767–769). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Missouri Department of Natural Resources' Air Pollution Control Program received sixteen (16) comments from five (5) sources on this amendment: a private citizen, Washington University Interdisciplinary Environmental Law Clinic representing the Citizens Legal Environmental Action Network, the Regulatory Environmental Group for Missouri (REGFORM), Newman, Comley & Ruth P.C. (NCRPC) representing the Missouri Agribusiness Association and Missouri Pork Association, and the Missouri Farm Bureau.

COMMENT #1: REGFORM thanked the commission for their diligence in moving this forward and finding a resolution that is workable. The department's rulemaking has reached a nice compromise and they are appreciative of the effort.

RESPONSE: The new rule proposed is the culmination of a multi-year evaluation and discussion of the current odor rules. Beginning with a formal petition to amend the rules submitted in October 2006, the department and Missouri Air Conservation Commission (MACC) have worked with shareholders and interested parties as part of an odor workgroup in 2007 and continuing with the commission's deliberations during years 2007–2009 as part of their regular meetings. The commission worked with the department on specific language to incorporate into the proposed rulemaking based on the substantial amount of input from interested parties. As noted at the June 2009 meeting, the commission stated that stakeholders have had ample opportunity to weigh in on all of the issues. The department recognizes the time and effort that REGFORM and others have contributed to this rulemaking and appreciates REGFORM's supportive comment. No change was made to the rule text as a result of this comment.

COMMENT #2: The Missouri Farm Bureau commented that they were participants in the odor workgroup and conveyed their opposition to extending regulations to operations with less than a Class IA designation. They have said that science, not emotion and politics, should be used in determining if regulatory changes are warranted. Complaints against two (2) or three (3) large agricultural entities do not justify expanding the reach of the state's odor regulations to smaller livestock operations. They have said that more research is needed in the area of agricultural emissions. The results of the National Air Emissions Monitoring Study are expected to be released in coming weeks, and the United States Department of Agriculture (USDA) continues to discuss and study odor and air emissions. Finally, voluntary incentive-based assistance is preferable to sweeping new regulations. The USDA has a web-based tool available to help farmers identify opportunities for reducing emissions on their respective operations. They conclude by saying that the proposed rule is not perfect, but it is a compromise.

RESPONSE: The department recognizes the time and effort that the Missouri Farm Bureau has contributed to this rulemaking and appreciates the comment. All comments have been considered throughout the rule development process. The odor rule continues to apply only to Class IA concentrated animal feeding operations (CAFOs) and does not extend to smaller operations. No change was made to the rule text as a result of this comment.

Due to similar concerns addressed in the following two (2) comments, one (1) response that addresses these concerns can be found at the end of these two (2) comments:

COMMENT #3: A private citizen commented that the public and private fiscal note of five hundred dollars (\$500) per year may be significantly understated. The cost of writing an odor control plan and the cost of producing/complying with the odor control plan is beyond five hundred dollars (\$500) per year. If the cost of compliance is part of the fiscal note, then the cost may be several thousands a year. One (1) Nasal Ranger is about seventeen hundred dollars (\$1,700) not counting the cost of sending employees to an out-of-state training session.

COMMENT #4: NCRPC commented that the fiscal note says there is less than five hundred dollars (\$500) impact on Class IA CAFOs. Amendments of plans will undoubtedly cost each Class IA CAFO more than five hundred dollars (\$500) to amend its plan. The department should investigate the cost to amend plans and revise the fiscal note.

RESPONSE AND EXPLANATION OF CHANGE: The new rule is a consolidation of existing rules and therefore does not impose a new or stricter standard or significantly change other requirements but continues for all practical purposes the existing standard and requirements. The proposed public entity cost statement is appropriate because no new equipment costs are incurred with this rule. The department had already purchased Nasal Rangers prior to this rulemaking. The proposed private entity cost statement is also appropriate because the cost for existing odor control plans was included in the fiscal note cost for the original area-specific rules. Private entities may have costs if their approved plan is inadequate or requires modification based on changes in their operation. However, in the 1999 rule amendment that added the initial language and requirements for Class IA CAFOs, the annual private cost associated with implementing and operating an odor control plan on a per facility basis, including reviewing and updating the plan, was estimated at fifty thousand dollars (\$50,000). Since all current Class IA CAFOs are operating under approved odor control plans, the department assumes that the time to review and provide any update to the plan as a result of this rulemaking is expected to be minimal. As a result of this comment, a change was made to section (4) to clarify odor control plan update requirements.

COMMENT #5: The Washington University Interdisciplinary Environmental Law Clinic (Clinic) commented that they have sub-

mitted comments to the commission as well as the department during the process leading up to this point and support the adoption of the proposed regulations. The Clinic proposes additional changes to ensure that the odor regulation achieves its goal. All CAFOs, not just the largest ones, should be subject to the odor regulations. The reasoning is that if smaller CAFOs are causing a violation of the state's odor standard, then they should be held accountable and required to take preventative measures.

RESPONSE: The odor workgroup and commission discussed including smaller animal operations in the odor regulation. Draft language was presented to the commission at the March 2008 meeting that did include Class IB CAFOs. Per the commission at its June 2008 meeting, the Class IB CAFO language was dropped. The commission decided not to lower the size threshold in the rule because the additional number of facilities (approximately four hundred fifty (450) if adding Class IB, IC, and Class II operations were included) would be resource prohibitive and beyond current staffing capabilities. No change was made to the rule text as a result of this comment.

COMMENT #6: The Washington University Interdisciplinary Environmental Law Clinic commented that the proposed regulation will most likely result in inconsistencies in the definition of IA CAFOs between the department's Air and Water Programs. Recent changes in federal water regulations will likely result in Missouri changing its Water Program definitions to conform to this new standard. A simple solution would be to incorporate by reference the odor regulations in the state's Water Program in regards to the definition of CAFOs.

RESPONSE: The current Air Program definition is consistent with department statute 640.703(3). If the statute is changed by the general assembly then the Air Program may incorporate that change into its regulation. No change was made to the rule text as a result of this comment.

Due to similarity of the following two (2) comments, one (1) response that addresses this issue can be found at the end of these two (2) comments:

COMMENT #7: The Washington University Interdisciplinary Environmental Law Clinic commented that the proposed rule states appropriately that an odor control plan must be updated after a modification has occurred. However, the proposed definition of modification is ambiguous and may make this fairly difficult to implement. The definition for modification should be revised to ensure that any changes in actual odor controls result in updated odor control plans. COMMENT #8: NCRPC commented that the definition for the term modification is too broad and overly inclusive. Voluntary, positive changes should not have to seek regulatory approval. They suggest the definition of modification should exclude situations where voluntary practices or technologies are implemented when the operation is in compliance with the odor standard.

RESPONSE AND EXPLANATION OF CHANGE: Requiring Class IA CAFOs to notify the department when a modification occurs is to assure that the department is informed about changes to the operation that will potentially impact odor emissions. In addition, it allows the department to respond in a more timely and knowledgeable manner should any questions arise about the operation. The intent is not to require operations to notify the department whenever there is a small change to an operation that does not impact odor emissions. Small changes would include items such as a small change in animal population. Odor control plan updates are required when more long-term changes occur to odor emission sources such as barns, lagoons, etc. and odor reduction strategies. As a result of these comments, a change has been made to the definition of modification in section (2)(A) to clarify the intent.

COMMENT #9: NCRPC commented that the purpose of an odor control plan should be clarified. Class IA CAFOs should not be required to propose any new odor control practices or technologies

if they are in compliance with the odor performance standard. The following change is recommended in the first sentence of subsection (3)(A)—shall operate under an odor control plan describing measures to be used to control odor emissions that are necessary to maintain compliance with the odor performance standard described in section (3).

**RESPONSE AND EXPLANATION OF CHANGE:** As noted in the comment, the purpose of the odor control plan is to maintain compliance with the odor standard. The odor control plan provides a consistent, regulatory structure that is used to evaluate an odor source and any options for reducing odor to achieve that purpose. As a result of this comment, the suggested language was added to subsection (3)(A).

**COMMENT #10:** NCRPC commented that under the elements of an odor control plan in subparagraph (3)(A)1.B., the economic impacts should be included, consistent with subparagraphs (3)(A)1.D. and E. **RESPONSE:** Subparagraph (3)(A)1.B. asks each operation to list potentially innovative and proven odor control options in their odor control plan. Establishing an economic impacts criterion at this point would limit the list early in the process. Further into the odor control plan preparation, where rankings of feasible odor control options are made and where an evaluation of the most effective odor control options is made, the economic impacts should be evaluated. No change was made to the rule text as a result of this comment.

**COMMENT #11:** NCRPC commented that the proposed rule deletes the requirement to consult with the Water Pollution Control Program. There has been no explanation of, or justification for, this omission. The Water Program's experience could provide valuable insight to assist the Air Program in its review of odor control plans.

**RESPONSE:** The original requirement to consult with the Water Pollution Control Program was necessary because Air Program staff were less familiar with CAFOs. Now that Air Program staff are familiar with CAFOs, the need to specify in the rule the requirement to consult with the Water Program is no longer justified. Eliminating the requirement to consult with the Water Program will also streamline the process of reviewing and approving odor control plans. As is the normal practice within the department, any consultation with other programs in the department regarding odor control plans will be done as needed. No change was made to the rule text as a result of this comment.

**COMMENT #12:** NCRPC commented that section (4) should be amended and combined with subsection (3)(B). Subsection (3)(B) grants too much authority and discretion to the staff director regarding violations of any requirement of this rule and recurring odor emissions. This subsection should be stricken from the rule. The only relevant metric that should trigger the requirement to amend an odor control plan is non-compliance with the odor performance standard. The rule should allow the staff director to require an amendment to the odor control plan if a location experiences three (3) notices of violation of the odor standard during any twelve (12)-month period. This would establish a clear standard that dictates when odor control plans should be amended.

**RESPONSE:** This language resulted from discussions by the commission at its February 6 and 7, 2008, meetings. Draft language was presented to the commission at the March 2008 meeting. While there have been changes to the language in subsection (3)(B), it is very similar to the initial proposal. The commission considered this comment during their deliberations in establishing the proposed rule text. No change was made to the rule text as a result of this comment.

**COMMENT #13:** NCRPC commented that section (4) requires odor control plans be updated every five (5) years or when a modification occurs. Clients oppose the requirement to update odor control plans every five (5) years just for the sake of updating the plans. This

imposes unnecessary time and expense on those farms which have not violated the odor performance standard.

**RESPONSE AND EXPLANATION OF CHANGE:** While the odor control plan is not an operating permit, the requirement to review and update as necessary an odor control plan is analogous from a time standpoint to renewing an operating permit every five (5) years. Requiring a review/update of odor control plans is to assure the department is informed about changes to the operation that will potentially impact odor emissions. As a result of this comment, a change was made to section (4) to clarify odor control plan update requirements.

**COMMENT #14:** NCRPC commented that the termination of an odor control plan clause—and the odor source has been removed—should be removed and the rule should allow the Air Program to terminate a plan immediately without waiting sixty (60) months. Clients suggest the draft rule be amended to allow odor control plans to be terminated in the event there are not exceedances of the odor standard for a period of forty-eight (48) months. The draft rule should reward farming operations that successfully control odor emissions from their livestock.

**RESPONSE AND EXPLANATION OF CHANGE:** An operation should not be able to terminate the requirement to have an odor control plan when the odor sources are still active. However, an operation should be able to terminate the odor control plan requirements when the odor sources have been removed. As a result of this comment, subsection (4)(B) has been amended to delete the sixty (60)-month period found in the proposed rule.

**COMMENT #15:** NCRPC commented that section (4) requires plans be updated six (6) months before the current odor control plan expires. Since odor control plans do not expire, it is unclear how to submit a plan six (6) months before expiration if the plan does not expire. In addition, subsection (4)(A) requires plans to be updated by December 31, 2010; since this rule may not be effective by that date, will facilities be subject to enforcement for not amending their plans in accordance with a deadline that may not be legally in effect as of December 31?

**RESPONSE AND EXPLANATION OF CHANGE:** When the commission directed the staff to proceed with the rulemaking in June 2009, the use of the December 31, 2010, date appeared appropriate. However, the rulemaking has taken longer to complete than originally anticipated. As a result of this comment, the date has been changed to March 31, 2011, in subsection (4)(A) to allow Class IA CAFOs additional time to update their odor control plans.

**COMMENT #16:** NCRPC commented that inspectors should be trained and certified on the Nasal Ranger. Inspectors should successfully complete an odor certification course and undergo sensitivity training. This should be part of the rule or part of the policy of the department.

**RESPONSE:** The department provides training and mentoring and has a written protocol for inspectors for taking odor evaluations. Nasal Rangers come with instructions on how to use the instrument. The department has looked into sending its inspectors for additional training and certification to a company such as St. Croix Sensory, but the costs associated with travel, expenses, and training are significant. No change was made to the rule text as a result of this comment.

## 10 CSR 10-6.165 Restriction of Emission of Odors

### (2) Definitions.

(A) Modification—Any change to a source of odor emissions or source operations, including odor controls, that causes or could cause an increase in potential odor emissions.

### (3) General Provisions. No person may cause, permit, or allow the

emission of odorous matter in concentrations and frequencies or for durations that odor can be perceived when one (1) volume of odorous air is diluted with seven (7) volumes of odor-free air for two (2) separate trials not less than fifteen (15) minutes apart within the period of one (1) hour. This odor evaluation shall be taken at a location outside of the installation's property boundary.

(A) Control of Odors from Class IA Concentrated Animal Feeding Operations. Notwithstanding any provision in any other regulation to the contrary, all Class IA concentrated animal feeding operations shall operate under an odor control plan describing measures to be used to control odor emissions that are necessary to maintain compliance with the odor performance standard described in section (3). All new Class IA concentrated animal feeding operations and any operation that expands to become a Class IA concentrated animal feeding operation shall obtain approval from the department for an odor control plan at least sixty (60) days prior to commencement of operation.

1. The odor control plan shall contain the following:

A. A listing of all sources of odor emissions and description of how odors are currently being controlled;

B. A listing of all potentially innovative and proven odor control options for reducing odor emissions. Odor control options may include odor reductions achieved through: odor prevention, odor capture and treatment, odor dispersion, add-on control devices, management practices, modifications to feed-stock or waste handling practices, or process changes;

C. A detailed discussion of feasible odor control options for odor emissions. The discussion shall include options determined to be infeasible. Determination of infeasibility should be well documented and based on physical, chemical, and engineering principles demonstrating that technical difficulties would preclude the success of the control option;

D. A ranking of feasible odor control options from most to least effective. Ranking factors shall include odor control effectiveness, expected odor reduction, energy impacts, and economic impacts;

E. An evaluation of the most effective odor control options. Energy, environmental, and economic impacts shall be evaluated on a case-by-case basis;

F. Description of the odor control options to be implemented to reduce odor emissions;

G. A schedule for implementation. The schedule shall establish interim milestones in implementing the odor control plan prior to the implementation deadline if the plan is not implemented at one time; and

H. An odor monitoring plan.

2. The Missouri Department of Natural Resources' Air Pollution Control Program shall review and approve or disapprove the odor control plan.

A. After the program receives an odor control plan, they shall perform a completeness review. Within thirty (30) days of receipt, the program shall notify the plan originator if the plan contains all the elements of a complete odor control plan. If found incomplete, the program shall provide the originator a written explanation of the plan's deficiencies.

B. Within sixty (60) days after determining an odor control plan submittal is deemed complete, the program shall approve or disapprove the plan. During this sixty (60)-day technical review period, the program may request additional information needed for review. If the plan is disapproved, the program shall give the plan originator a written evaluation explaining the reason(s) for disapproval.

(4) Reporting and Record Keeping. Odor control plans shall be reviewed and updated as necessary a minimum of every five (5) years from the date last approved or when a modification occurs. In lieu of a full plan update, a letter may be provided to the department stating that a review was performed and the existing odor control plan is adequate. This review letter or odor control plan update shall be due

to the department six (6) months before the current odor control plan expires or at least thirty (30) days prior to the modification occurring with the following provisions:

(A) All existing odor control plans shall be updated by March 31, 2011; and

(B) Any person may petition the department to be removed from the odor control plan requirement based on documentation that the odor source has been removed.

## **Title 13—DEPARTMENT OF SOCIAL SERVICES**

### **Division 70—MO HealthNet Division**

#### **Chapter 3—Conditions of Provider Participation, Reimbursement and Procedure of General Applicability**

#### **ORDER OF RULEMAKING**

By the authority vested in the MO HealthNet Division under sections 190.836 and 208.201, RSMo Supp. 2009, the division adopts a rule as follows:

13 CSR 70-3.200 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on May 3, 2010 (35 MoReg 685-687). The section with changes is reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The division received one (1) comment on the proposed rule.

COMMENT: The Missouri EMS Agent Corporation (MoEMSAC) suggested that the proposed tax rate should be reduced from five and forty-five hundredths percent (5.45%) of gross receipts to four and four hundred seventeen thousandths percent (4.417%) of gross receipts in order to comply with the requirement of the federal Medicaid provider tax law. MoEMSAC also commented there may be a need from time-to-time to adjust the tax rate in order to maintain compliance with the B1/B2 test required by the federal Medicaid provider tax law.

RESPONSE AND EXPLANATION OF CHANGE: The division concurs with the comment and has modified the proposed rule accordingly.

#### **13 CSR 70-3.200 Ambulance Service Reimbursement Allowance**

(2) Ambulance Service Reimbursement Allowance Rate for SFY 2010 and SFY 2011. The ambulance service reimbursement allowance rate for SFY 2010 and SFY 2011 determined by the division, as set forth in subsection (1)(B) above, is as follows:

(A) The ambulance service reimbursement allowance rate shall be four and four hundred seventeen thousandths percent (4.417%) of gross receipts as determined in paragraph (1)(A)5. above with an aggregate annual adjustment, by the MO HealthNet Division, not to exceed five-tenths percent (0.5%) based on the ambulance services total gross receipts. No ambulance service reimbursement allowance shall be collected by the Department of Social Services if the federal Centers for Medicare and Medicaid Services (CMS) determines that such reimbursement allowance is not authorized under Title XIX of the Social Security Act.

REVISED PRIVATE COST: This proposed rule will cost emergency ambulance providers approximately \$8,103,855 in SFY 2011.

**REVISED FISCAL NOTE  
PRIVATE COST**

- I. Department Title:** Department of Social Services  
**Division Title:** MO HealthNet Division  
**Chapter Title:** Conditions of Provider Participation, Reimbursement and procedure of General Applicability

<b>Rule Number and Title:</b>	13 CSR 70-3.200 Ambulance Service Reimbursement Allowance
<b>Type of Rulemaking:</b>	Proposed Amendment

**II. SUMMARY OF FISCAL IMPACT**

Estimate of the number of entities by class which would likely be affected by the adoption of the rule:	Classification by types of the business entities which would likely be affected:	Estimate in the aggregate as to the cost of compliance with the rule by the affected entities:
211	Emergency Ambulance Providers	Estimated cost for SFY 2011 \$8,103,855

**III. WORKSHEET**

The fiscal note is based on establishing the Ambulance Service Reimbursement Allowance assessment rate at 4.417% effective for SFY 2011.

**IV. ASSUMPTIONS**

The Ambulance Service Reimbursement Allowance assessment rate of 4.417% is levied upon Emergency Ambulance Providers' gross receipts of approximately \$183,469,664.

Gross receipts is emergency ambulance revenue from Medicare, Medicaid, insurance, and private payments from CPT Code A0427/A0425 Ambulance service, advanced life support, emergency transport, level 1 (ALS1- emergency) and associated ground mileage; CPT code A0429/A0425 Ambulance services, basic life support, emergency transport (BLS – emergency) and associated ground mileage; and CPT Code A0433/A0425 Advanced life support, Level 2 (ALS2) and associated ground mileage.



**Title 13—DEPARTMENT OF SOCIAL SERVICES**  
**Division 70—MO HealthNet Division**  
**Chapter 90—Home Health Program**

**ORDER OF RULEMAKING**

By the authority vested in the MO HealthNet Division under sections 208.152, 208.153, and 208.201, RSMo Supp. 2009, the division amends a rule as follows:

**13 CSR 70-90.010 Home Health-Care Services is amended.**

A notice of proposed rulemaking containing the text of the proposed amendment was published in the *Missouri Register* on May 3, 2010 (35 MoReg 688-690). No changes have been made in the text of the proposed amendment, so it is not reprinted here. This proposed amendment becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The division received three (3) comments on the proposed amendment.

COMMENT #1: Megan Burke and Kirsten Dunham, with the Disability Coalition on Healthcare Reform, support the revisions that remove the homebound requirement and revisions that would strengthen the MO HealthNet program's home health services. They also support including therapy services for adults in the regulation so that people can receive therapy services in the community. The Disability Coalition on Healthcare Reform included suggestions on steps that would enhance the positive impact of eliminating the homebound requirement to save the state money from unnecessary institutionalization of disabled individuals who can live in the community as long as they receive home health services.

RESPONSE: The division will monitor the implementation of this change in the home health rule. The addition of therapy services for adults is not authorized under the current Medicaid appropriation. No changes were made to the rule as a result of this comment.

COMMENT #2: Mary Schantz, Executive Director, Missouri Alliance for Home Care, supports the revisions to the home health regulation. The Alliance believes the current homebound requirement restricts access to home health services and supports its elimination. The Alliance also advocates for the rule to be modified to include therapy services.

RESPONSE: The division will monitor the implementation of this change in the home health rule. The addition of therapy services for adults is not authorized under the current Medicaid appropriation. No changes were made to the rule as a result of this comment.

COMMENT #3: Joel D. Ferber and James B. Frost, Legal Services of Eastern Missouri, support the revisions to the regulation because they remove the homebound requirement which restricts access to home health services for Medicaid beneficiaries with disabilities. Legal Services of Eastern Missouri further recommended regulations to address hospital discharge planning and covering therapy services as a Medicaid covered benefit.

RESPONSE: The division will monitor the implementation of this change in the home health rule. The addition of therapy services for adults is not authorized under the current Medicaid appropriation. No changes were made to the rule as a result of this comment.

**Title 20—DEPARTMENT OF INSURANCE,**  
**FINANCIAL INSTITUTIONS AND PROFESSIONAL**  
**REGISTRATION**  
**Division 2150—State Board of Registration for the**  
**Healing Arts**  
**Chapter 5—General Rules**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Nursing under sections 334.104.3 and 335.036, RSMo Supp. 2009 and section 334.125, RSMo 2000, the board rescinds a rule as follows:

**20 CSR 2150-5.100 Collaborative Practice is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on June 1, 2010 (35 MoReg 869). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,**  
**FINANCIAL INSTITUTIONS AND PROFESSIONAL**  
**REGISTRATION**  
**Division 2150—State Board of Registration for the**  
**Healing Arts**  
**Chapter 5—General Rules**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Registration for the Healing Arts under sections 334.104.3 and 335.036, RSMo Supp. 2009 and section 334.125, RSMo 2000, the board adopts a rule as follows:

**20 CSR 2150-5.100 is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 1, 2010 (35 MoReg 869-872). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The Board of Nursing and Board of Registration for the Healing Arts received seventy-three (73) comments on the proposed rule.

COMMENTS #1-#70: A total of seventy (70) Advanced Practice Registered Nurses (APRNs), Physicians, Registered Professional Nurses, and members of the public all submitted letters of support describing how the passage of this rule will improve their ability to provide or receive timely health care.

RESPONSE: The board appreciates the support. No changes have been made as a result of these comments.

COMMENT #71: Stephen R. Smith, MD, representing the Missouri Society of Anesthesiologists, suggested the board further clarify the "one (1) month" period of time requirement. Mr. Smith, MD, feels that it is not completely clear what constituted "one (1) month" in this rule and more specificity would be helpful to clarify what is required of the APRN and collaborating physician. For example, does this rule require thirty (30) eight (8)-hour office days, four (4) five (5)-day weeks, or simply the passage of one (1) calendar month? Since the intent of the requirement is to ensure adequate time for interpersonal interaction in order to establish a workable collaborative practice relationship, then it stands to reason that this time be clearly delineated and set in accordance with statutory language.

The society suggests a minimum of twenty-two (22) regular practice days (the average number of weekdays in a calendar month) of collaborative practice with the collaborating physician personally and continuously present (same office setting) to fulfill this rule. Additional days could reasonably be required under the statutory language and may be desirable to ensure the safety of patients receiving treatment under this act.

RESPONSE: The State Board of Nursing and State Board of Registration for the Healing Arts have been instructed by the legislature that any further clarification to the “one (1) month” period of time required in the rule would need to be done legislatively and not in rule. Therefore, no changes are being made to the proposal.

COMMENT #72: Thomas L. Holloway, representing the Missouri State Medical Association, commented that the proposed rule appears to be consistent with the recently-revised statutes, and the association commends the hard work put forth on this difficult issue. Section 334.104.3. of the new state law specifies several mandatory elements for all collaborative practice arrangements, but the proposed rule recites only a few of them. It may seem redundant to have these provisions in both the law and the administrative rule, but experience tells us that many people assume the rules are more specific than the statutes. Should a physician and collaborating nurse rely on the rule rather than the statute to guide them in crafting a collaborative practice arrangement, many of the required elements might be overlooked, and their arrangement could inadvertently be in violation of the law. Questions about the required composition of a collaborative practice arrangement are fairly common, and it might facilitate the efforts of physicians and their nurses if the rules were made to be consistent with the law.

RESPONSE AND EXPLANATION OF CHANGE: The State Board of Nursing and State Board of Registration for the Healing Arts agree that a reference to the statute in the rule would be beneficial to assist physicians and collaborating nurses. Therefore, an addition has been made to the beginning of the first sentence of the purpose.

COMMENT #73: A letter of opposition was received from Michael J. Nelson, MD, regarding advanced practice nurses writing narcotic prescriptions in Missouri.

RESPONSE: The statute allowing controlled substance prescriptive authority by advanced practice registered nurses was passed by the state legislature in 2008. Therefore, no change is made as a result of this comment.

#### **20 CSR 2150-5.100 Collaborative Practice**

*PURPOSE: In accordance with section 334.104, RSMo, this rule defines collaborative practice arrangement terms and delimits geographic areas; methods of treatment; review of services; and drug/device dispensing or distribution pursuant to prescription.*

### **Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION**

#### **Division 2200—State Board of Nursing Chapter 4—General Rules**

#### **ORDER OF RULEMAKING**

By the authority vested in the State Board of Nursing under sections 335.016(2) and 335.036, RSMo Supp. 2009, the board rescinds a rule as follows:

#### **20 CSR 2200-4.100 Advanced Practice Nurse is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on June 1, 2010 (35 MoReg 872). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

### **Title 20—DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION**

#### **Division 2200—State Board of Nursing Chapter 4—General Rules**

#### **ORDER OF RULEMAKING**

By the authority vested in the State Board of Nursing under sections 335.016(2) and 335.036, RSMo Supp. 2009, the board adopts a rule as follows:

20 CSR 2200-4.100 is adopted.

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 1, 2010 (35 MoReg 872-878). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 30, 2010. The Board of Nursing and Board of Registration for the Healing Arts received sixty-nine (69) comments on the proposed rule.

COMMENTS #1-#68: A total of sixty-eight (68) Advanced Practice Registered Nurses (APRNs), Physicians, Registered Professional Nurses, and members of the public all submitted letters of support describing how the passage of this rule will improve their ability to provide or receive timely health care.

RESPONSE: The board appreciates the support. No changes have been made as a result of these comments.

COMMENT #69: Stephen R. Smith, MD, representing the Missouri Society of Anesthesiologists, expresses concern that the proposed rules do not meet the statutory requirement for the “three hundred (300) clock hours” of pharmacologic training. The statutory language of Senate Bill 724 seems quite clear that three hundred (300) clock hours of preceptorial experience in prescribing medications are required. Forty-five (45) continuing education units (CEUs) of pharmacology in the preceding five (5) years is not even close to this. Option (III) is evidence of classroom work, which is not “preceptorial experience in the prescription of drugs, medicines, and therapeutic devices with a qualified preceptor” and does not list actual clock hours. Option (II) is a letter, which again has no documentation of actual clock hours with a preceptor. Finally, Option (I), a course transcript, usually does not break down clock hours spent with one (1) or more individual preceptors.

RESPONSE AND EXPLANATION OF CHANGE: The board is in agreement with Mr. Smith’s comment and has added the phrase “preceptorial experience in the prescription of drugs, medicines, and therapeutic devices with a qualified preceptor” in subparagraph (2)(B)7.A. and added subparagraph (2)(B)7.B. to add further clarification of “preceptorial experience.”

#### **20 CSR 2200-4.100 Advanced Practice Registered Nurse**

(2) To Obtain APRN Recognition.

(B) Initial Recognition—RNs who are certified registered nurse anesthetists (CRNA), certified nurse midwives (CNM), certified nurse practitioners, or certified clinical nurse specialists (CNS) applying for recognition from the MSBN for eligibility to practice as advanced practice registered nurses shall—

1. Hold a current unencumbered license to practice in Missouri or another compact state as an RN; and

2. Provide evidence of completion of appropriate advanced nursing education program as defined in subsection (1)(C) of this rule; and

3. Submit completed Document of Recognition application and

appropriate fee to the MSBN. Incomplete application forms and evidence will be considered invalid. Fees are not refundable; and

4. Submit documentation of current certification in their respective advanced nursing clinical specialty area by an MSBN-approved, nationally-recognized certifying body, meeting the requirements of this rule; or

5. Before January 1, 2010, applicants for whom there is no appropriate certifying examination shall also provide the following documentation:

A. Evidence of successful completion of three (3) graduate credit hours of pharmacology offered by an accredited college or university within the previous five (5) years prior to the date of application to the board; and

B. Evidence of a minimum of eight hundred (800) hours of clinical practice in the advanced practice nursing clinical specialty area within two (2) years prior to date of application to the board; and

6. Each applicant is responsible for maintaining and providing documentation of satisfactory, active, up-to-date certification/recertification/maintenance and/or continuing education/competency status to the MSBN.

7. To be eligible for controlled substance prescriptive authority, the APRN applicant must:

A. Submit evidence of completion of an advanced pharmacology course that shall include preceptorial experience in the prescription of drugs, medicines, and therapeutic devices with a qualified preceptor. Evidence shall be submitted in the form of one (1) of the following:

(I) An official final transcript from their advanced practice program; or

(II) A letter from the school describing how this was integrated into the curriculum; or

(III) Evidence of successful completion of three (3) credit hours post-baccalaureate course in advanced pharmacology from an accredited college or university within the last five (5) years; or

(IV) Evidence of successful completion of forty-five (45) continuing education units in pharmacology within the last five (5) years; and

B. Provide evidence of completion of at least three hundred (300) clock hours of preceptorial experience in the prescription of drugs, medicines, and therapeutic devices with a qualified preceptor. The APRN applicant shall complete the form provided by the MSBN and include this form with the Document of Recognition application or at such time as the APRN has completed the required hours of preceptorial experience; and

C. Has had controlled substance prescriptive authority delegated in a collaborative practice arrangement under section 334.104, RSMo, with a Missouri licensed physician who has an unrestricted federal Drug Enforcement Administration (DEA) number and who is actively engaged in a practice comparable in scope, specialty, or expertise to that of the APRN. Submit the completed "Statement of Controlled Substance Delegation" form provided by the MSBN as part of the application process to the MSBN.

8. Once the APRN has received controlled substance prescriptive authority from the MSBN, he/she may apply for a BNDD registration number and a federal DEA registration number. Restrictions that may exist on the collaborative physician's BNDD registration may also result in restrictions on the BNDD registration for the APRN. The instructions and the application needed for BNDD registration can be found at [www.dhss.mo.gov/BNDD](http://www.dhss.mo.gov/BNDD). For information regarding federal DEA registration, see [www.DEADiversion.usdoj.gov](http://www.DEADiversion.usdoj.gov).

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2200—State Board of Nursing  
Chapter 4—General Rules  
ORDER OF RULEMAKING**

By the authority vested in the State Board of Nursing under sections 334.104.3 and 335.036, RSMo Supp. 2009, the board rescinds a rule as follows:

**20 CSR 2200-4.200 Collaborative Practice is rescinded.**

A notice of proposed rulemaking containing the proposed rescission was published in the *Missouri Register* on June 1, 2010 (35 MoReg 879). No changes have been made to the proposed rescission, so it is not reprinted here. This proposed rescission becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: No comments were received.

**Title 20—DEPARTMENT OF INSURANCE,  
FINANCIAL INSTITUTIONS AND PROFESSIONAL  
REGISTRATION  
Division 2200—State Board of Nursing  
Chapter 4—General Rules**

**ORDER OF RULEMAKING**

By the authority vested in the State Board of Nursing under sections 334.104.3 and 335.036, RSMo Supp. 2009, the board adopts a rule as follows:

**20 CSR 2200-4.200 is adopted.**

A notice of proposed rulemaking containing the text of the proposed rule was published in the *Missouri Register* on June 1, 2010 (35 MoReg 879–881). Those sections with changes are reprinted here. This proposed rule becomes effective thirty (30) days after publication in the *Code of State Regulations*.

SUMMARY OF COMMENTS: The public comment period ended June 30, 2010. The Board of Nursing and Board of Registration for the Healing Arts received seventy-three (73) comments on the proposed rule.

COMMENTS #1–#70: A total of seventy (70) Advanced Practice Registered Nurses (APRNs), Physicians, Registered Professional Nurses, and members of the public all submitted letters of support describing how the passage of this rule will improve their ability to provide or receive timely health care.

RESPONSE: The board appreciates the support. No changes have been made as a result of these comments.

COMMENT #71: Stephen R. Smith, MD, representing the Missouri Society of Anesthesiologists, suggested the board further clarify the "one (1) month" period of time requirement. Mr. Smith, MD, feels that it is not completely clear what constituted "one (1) month" in this rule and more specificity would be helpful to clarify what is required of the APRN and collaborating physician. For example, does this rule require thirty (30) eight (8)-hour office days, four (4) five (5)-day weeks, or simply the passage of one (1) calendar month? Since the intent of the requirement is to ensure adequate time for interpersonal interaction in order to establish a workable collaborative practice relationship, then it stands to reason that this time be clearly delineated and set in accordance with statutory language.

The society suggests a minimum of twenty-two (22) regular practice days (the average number of weekdays in a calendar month) of collaborative practice with the collaborating physician personally and continuously present (same office setting) to fulfill this rule. Additional days could reasonably be required under the statutory language and may be desirable to ensure the safety of patients receiving treatment under this act.

RESPONSE: The State Board of Nursing and State Board of

Registration for the Healing Arts have been instructed by the legislature that any further clarification to the “one (1) month” period of time required in the rule would need to be done legislatively and not in rule. Therefore, no changes are being made to the proposal.

COMMENT #72: Thomas L. Holloway, representing the Missouri State Medical Association, commented that the proposed rule appears to be consistent with the recently-revised statutes, and the association commends the hard work put forth on this difficult issue. Section 334.104.3. of the new state law specifies several mandatory elements for all collaborative practice arrangements, but the proposed rule recites only a few of them. It may seem redundant to have these provisions in both the law and the administrative rule, but experience tells us that many people assume the rules are more specific than the statutes. Should a physician and collaborating nurse rely on the rule rather than the statute to guide them in crafting a collaborative practice arrangement, many of the required elements might be overlooked, and their arrangement could inadvertently be in violation of the law. Questions about the required composition of a collaborative practice arrangement are fairly common, and it might facilitate the efforts of physicians and their nurses if the rules were made to be consistent with the law.

RESPONSE AND EXPLANATION OF CHANGE: The State Board of Nursing and State Board of Registration for the Healing Arts agree that a reference to the statute in the rule would be beneficial to assist physicians and collaborating nurses. Therefore, an addition has been made to the beginning of the first sentence of the purpose.

COMMENT #73: A letter of opposition was received from Michael J. Nelson, MD, regarding advanced practice nurses writing narcotic prescriptions in Missouri.

RESPONSE: The statute allowing controlled substance prescriptive authority by advanced practice registered nurses was passed by the state legislature in 2008. Therefore, no change is made as a result of this comment.

## **20 CSR 2200-4.200 Collaborative Practice**

*PURPOSE: In accordance with section 334.104, RSMo, this rule defines collaborative practice arrangement terms and delimits geographic areas; methods of treatment; review of services; and drug/device dispensing or distribution pursuant to prescription.*

**T**his section may contain notice of hearings, correction notices, public information notices, rule action notices, statements of actual costs, and other items required to be published in the *Missouri Register* by law.

**Title 7—DEPARTMENT OF TRANSPORTATION  
Division 10—Missouri Highways and  
Transportation Commission  
Chapter 25—Motor Carrier Operations**

**IN ADDITION**

**7 CSR 10-25.010 Skill Performance Evaluation Certificates for  
Commercial Drivers**

**PUBLIC NOTICE**

Public Notice and Request for Comments on Applications for Issuance of Skill Performance Evaluation Certificates to Intrastate Commercial Drivers with Diabetes Mellitus or Impaired Vision

**SUMMARY:** This notice publishes MoDOT's receipt of applications for the issuance of Skill Performance Evaluation (SPE) Certificates from individuals who do not meet the physical qualification requirements in the Federal Motor Carrier Safety Regulations for drivers of commercial motor vehicles in Missouri intrastate commerce because of impaired vision or an established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control. If granted, the SPE Certificates will authorize these individuals to qualify as drivers of commercial motor vehicles (CMVs), in intrastate commerce only, without meeting the vision standard prescribed in 49 CFR 391.41(b)(10), if applicable, or the diabetes standard prescribed in 49 CFR 391.41(b)(3).

**DATES:** Comments must be received at the address stated below on or before October 31, 2010.

**ADDRESSES:** You may submit comments concerning an applicant, identified by the Application Number stated below, by any of the following methods:

- **Email:** Kathy.Hatfield@modot.mo.gov
- **Mail:** PO Box 893, Jefferson City, MO 65102-0893
- **Hand Delivery:** 1320 Creek Trail Drive, Jefferson City, MO 65109
- **Instructions:** All comments submitted must include the agency name and Application Number for this public notice. For detailed instructions on submitting comments, see the Public Participation heading of the Supplementary Information section of this notice. All comments received will be open and available for public inspection, and MoDOT may publish those comments by any available means.

**COMMENTS RECEIVED  
BECOME MoDOT PUBLIC RECORD**

- By submitting any comments to MoDOT, the person authorizes MoDOT to publish those comments by any available means.
- **Docket:** For access to the department's file, to read background documents or comments received, 1320 Creek Trail Drive, Jefferson City, MO 65109, between 7:30 a.m. and 4:00 p.m., CT, Monday through Friday, except state holidays.

**FOR FURTHER INFORMATION, CONTACT:** Ms. Kathy Hatfield, Motor Carrier Specialist, (573) 522-9001, MoDOT Motor Carrier Services Division, PO Box 893, Jefferson City, MO 65102-0893. Office hours are from 7:30 a.m. to 4:00 p.m., CT, Monday through Friday, except state holidays.

**SUPPLEMENTARY INFORMATION:**

**Public Participation**

If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard.

**Background**

The individuals listed in this notice have recently filed applications requesting MoDOT to issue SPE Certificates to exempt them from the physical qualification requirements relating to vision in 49 CFR 391.41(b)(10), or to diabetes in 49 CFR 391.41(b)(3), which otherwise apply to drivers of CMVs in Missouri intrastate commerce.

Under section 622.555, RSMo Supp. 2009, MoDOT may issue a Skill Performance Evaluation Certificate, for not more than a two (2)-year period, if it finds that the applicant has the ability, while operating CMVs, to maintain a level of safety that is equivalent to or greater than the driver qualification standards of 49 CFR 391.41. Upon application, MoDOT may renew an exemption upon expiration.

Accordingly, the agency will evaluate the qualifications of each applicant to determine whether issuing an SPE Certificate will comply with the statutory requirements and will achieve the required level of safety. If granted, the SPE Certificate is only applicable to intrastate transportation wholly within Missouri.

**Qualifications of Applicants**

**Application #MP080717033**

Renewal Applicant's Name & Age: Verlin W. Ford, 54

Relevant Physical Condition: Mr. Ford's best-corrected visual acuity in his left eye is 20/20 Snellen. He is blind in his right eye and has been since birth.

Relevant Driving Experience: Mr. Ford has driven approximately thirty-two (32) years and has driven a bucket truck approximately five (5) years in the Scott City, Missouri, area. Drives personal vehicle(s) daily.

Doctor's Opinion & Date: Following an examination in July 2010, his ophthalmologist certified, "In my medical opinion, Mr. Ford's visual deficiency is stable and has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle and that his condition will not adversely affect his ability to operate a commercial motor vehicle safely."

Traffic Accidents and Violations: No accidents or violations within the past three (3) years.

**Application #MP100701060**

Applicant's Name & Age: Thomas W. May, 51

Relevant Physical Condition: Mr. May's best-corrected visual acuity in his left eye is 20/20 Snellen, and his right eye is 20/60 Snellen. He has had amblyopia in his right eye since childhood.

Relevant Driving Experience: Mr. May has driven non-CDL-required vehicles since 1977 and has driven a passenger bus since 2006. Drives personal vehicle(s) daily.

Doctor's Opinion & Date: Following an examination in April 2010, his ophthalmologist certified, "In my medical opinion, Mr. May's

visual deficiency is stable and has sufficient vision to perform the driving tasks required to operate a commercial motor vehicle and that his condition will not adversely affect his ability to operate a commercial motor vehicle safely.”

For additional information, contact  
Donna Schuessler, (573) 751-6403.

Traffic Accidents and Violations: No accidents or violations within the past three (3) years.

**Request for Comments**

The Missouri Department of Transportation, Motor Carrier Services Division, pursuant to section 622.555, RSMo, and rule 7 CSR 10-25.010, requests public comment from all interested persons on the applications for issuance of Skill Performance Evaluation Certificates described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in this notice.

Issued on: September 1, 2010

*Jan Skouby, Motor Carrier Services Director, Missouri Department of Transportation*

**Title 19—DEPARTMENT OF HEALTH AND  
SENIOR SERVICES  
Division 60—Missouri Health Facilities Review Committee  
Chapter 50—Certificate of Need Program**

**NOTIFICATION OF REVIEW:  
APPLICATION REVIEW SCHEDULE**

The Missouri Health Facilities Review Committee has initiated review of the expedited applications listed below. A decision is tentatively scheduled for October 22, 2010. These applications are available for public inspection at the address shown below:

**Date Filed**

**Project Number:** Project Name  
City (County)  
Cost, Description

**08/25/10**

**#4552 NP:** Mount Carmel Senior Living  
St. Charles (St. Charles County)  
\$5,679,500, Long-term care (LTC) bed expansion through the purchase of 30 skilled nursing facility beds from Bethesda Dillworth, St. Louis

**09/07/10**

**#4503 RS:** Lakewood Assisted Living by Americare  
Springfield (Greene County)  
\$1,561,100, Renovate/modernize LTC facility

**09/13/10**

**#4562 RT:** Lutheran Convalescent Home  
St. Louis (St. Louis County)  
\$1,420,000, Renovate/modernize LTC facility

Any person wishing to request a public hearing for the purpose of commenting on these applications must submit a written request to this effect, which must be received by October 11, 2010. All written requests and comments should be sent to:

Chairman  
Missouri Health Facilities Review Committee  
c/o Certificate of Need Program  
3418 Knipp Drive, Suite F  
Post Office Box 570  
Jefferson City, MO 65102

**STATUTORY LIST OF CONTRACTORS  
BARRED FROM PUBLIC WORKS PROJECTS**

The following is a list of contractor(s) who have been prosecuted and convicted of violating the Missouri Prevailing Wage Law and whose Notice of Conviction has been filed with the Secretary of State pursuant to section 290.330, RSMo. Under this statute, no public body is permitted to award a contract, directly or indirectly, for public works 1) to Michael B. Robin, 2) to any other contractor or subcontractor that is owned, operated, or controlled by Mr. Robin, including Plumbco, Inc., or 3) to any other simulation of Mr. Robin or of Plumbco, Inc., for a period of one (1) year, or until December 17, 2010.

<b>Name of Contractor</b>	<b>Name of Officers</b>	<b>Address</b>	<b>Date of Conviction</b>	<b>Debarment Period</b>
Michael B. Robin DBA Plumbco, Inc. Case No. 09AO-CR01174		7534 Heron Drive Neosho, MO 64804	12/17/09	12/17/2009-12/17/2010

**T**he Secretary of State is required by sections 347.141 and 359.481, RSMo 2000, to publish dissolutions of limited liability companies and limited partnerships. The content requirements for the one-time publishing of these notices are prescribed by statute. This listing is published pursuant to these statutes. We request that documents submitted for publication in this section be submitted in camera ready 8 1/2" x 11" manuscript by email to [dissolutions@sos.mo.gov](mailto:dissolutions@sos.mo.gov).

**NOTICE OF DISSOLUTION OF LIMITED LIABILITY COMPANY TO ALL CREDITORS AND CLAIMANTS AGAINST MID-MISSOURI INVESTMENT CENTER, LLC.**

**On August 19, 2010, Mid-Missouri Investment Center, LLC, a Missouri limited liability company, filed its Notice of Winding Up for limited liability company with the Missouri Secretary of State, effective on the filing date.**

**Said company requests that all persons and organizations who have claims against it present them immediately by letter to the Company at: Mid-Missouri Investment Center, LLC, c/c Dan Cannefax, 1619 E. Independence, Springfield, MO 65804. All claims must include the name, address and telephone number of the claimant; the amount of the claim; the basis for the claim; the date on which the claim arose; and documentation for the claim.**

**All claims against Mid-Missouri Investment Center, LLC will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication of this notice.**

**NOTICE OF WINDING UP  
TO ALL CREDITORS OF AND  
CLAIMANTS AGAINST  
MAYSE INFINITI, LLC**

On August 20, 2010, Mayse Infiniti, LLC, a Missouri limited liability company, filed its Notice of Winding Up for Limited Liability Company with the Missouri Secretary of State.

You are hereby notified that if you believe you have a claim against Mayse Infiniti, LLC, you must submit a summary in writing of the circumstances surrounding your claim to:

Mayse Infiniti, LLC  
Attn: S. Rick Mayse  
2030 S. Elliott  
Aurora, MO 65605

The summary must include the name and address of the claimant, the amount claimed, the basis for the claim, the date(s) on which the event(s) on which the claim is based occurred, a brief description of the nature of the debt or the basis for the claim, and documentation supporting the claim.

**NOTICE: Because of the dissolution of Mayse Infiniti, LLC, any claim against it will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the publication date of the three notices authorized by statute, whichever is published last.**



**NOTICE OF WINDING UP AND DISSOLUTION**  
**FOR**  
**MORTGAGE ACQUISITION PARTNERS, L.L.C.**

1. The name of the limited liability company is Mortgage Acquisition Partners, L.L.C.
2. The Articles of Organization for Mortgage Acquisition Partners, L.L.C. were filed with the Missouri Secretary of State on April 9, 2001.
3. On August 19, 2010, Mortgage Acquisition Partners, L.L.C. filed a Notice of Winding Up for Limited Liability Company with the Secretary of the State of Missouri.
4. Persons with claims against Mortgage Acquisition Partners, L.L.C. should present them in accordance with the following procedure:
  - (a) In order to file a claim with Mortgage Acquisition Partners, L.L.C., you must furnish the following:
    - (i) Amount of the claim
    - (ii) Basis for the claim
    - (iii) Documentation for the claim
  - (b) The claim must be mailed to:

Mortgage Managers, Inc., Manager  
10829 Olive Blvd., Suite 200  
St. Louis, Missouri 63141
5. A claim against Mortgage Acquisition Partners, L.L.C. will be barred unless a proceeding to enforce the claim is commenced within three (3) years after publication of this notice.

**NOTICE OF WINDING UP OF LIMITED LIABILITY COMPANY  
TO ALL CREDITORS OF AND CLAIMANTS AGAINST  
CG LIQUIDATING, LLC**

On August 26, 2010, CG LIQUIDATING, LLC, a Missouri limited liability company ("Company"), filed its Notice of Winding Up with the Missouri Secretary of State, effective on the filing date.

All persons and organizations must submit to Company, c/o Frank C. Carnahan, Carnahan, Evans, Cantwell & Brown, P.C., 2805 S. Ingram Mill, Springfield, Missouri 65804, a written summary of any claims against Company, including: 1) claimant's name, address and telephone number; 2) amount of claim; 3) date(s) claim accrued (or will accrue); 4) brief description of the nature of the debt or the basis for the claim; and 5) if the claim is secured, and if so, the collateral used as security.

Because of the dissolution, any claims against Company will be barred unless a proceeding to enforce the claim is commenced within three (3) years after the last of filing or publication of this Notice.

# Rule Changes Since Update to Code of State Regulations

This cumulative table gives you the latest status of rules. It contains citations of rulemakings adopted or proposed after deadline for the monthly Update Service to the *Code of State Regulations*, citations are to volume and page number in the *Missouri Register*, except for material in this issue. The first number in the table cite refers to the volume number or the publication year—30 (2005) and 31 (2006). MoReg refers to *Missouri Register* and the numbers refer to a specific *Register* page, R indicates a rescission, W indicates a withdrawal, S indicates a statement of actual cost, T indicates an order terminating a rule, N.A. indicates not applicable, RAN indicates a rule action notice, RUC indicates a rule under consideration, and F indicates future effective date.

Rule Number	Agency	Emergency	Proposed	Order	In Addition
<b>OFFICE OF ADMINISTRATION</b>					
1 CSR 10	State Officials' Salary Compensation Schedule				30 MoReg 2435
1 CSR 15-3.290	Administrative Hearing Commission		This Issue		
1 CSR 15-3.350	Administrative Hearing Commission	This Issue	This Issue		
1 CSR 15-3.380	Administrative Hearing Commission	This Issue	This Issue		
1 CSR 15-3.431	Administrative Hearing Commission		This Issue		
1 CSR 15-3.436	Administrative Hearing Commission	This Issue	This Issue		
1 CSR 15-3.446	Administrative Hearing Commission	This Issue	This Issue		
1 CSR 15-3.480	Administrative Hearing Commission		This Issue		
1 CSR 15-3.490	Administrative Hearing Commission	This Issue	This Issue		
1 CSR 15-3.500	Administrative Hearing Commission		This Issue		
1 CSR 15-3.560	Administrative Hearing Commission		This Issue		
1 CSR 20-1.010	Personnel Advisory Board and Division of Personnel	This Issue	This Issue		
1 CSR 20-1.030	Personnel Advisory Board and Division of Personnel	This Issue	This Issue		
1 CSR 20-2.015	Personnel Advisory Board and Division of Personnel	This Issue	This Issue		
1 CSR 20-3.010	Personnel Advisory Board and Division of Personnel	This Issue	This Issue		
1 CSR 20-3.020	Personnel Advisory Board and Division of Personnel	This Issue	This Issue		
1 CSR 20-3.030	Personnel Advisory Board and Division of Personnel	This Issue	This Issue		
1 CSR 20-3.070	Personnel Advisory Board and Division of Personnel	This Issue	This Issue		
1 CSR 20-3.080	Personnel Advisory Board and Division of Personnel	This Issue	This Issue		
1 CSR 20-4.010	Personnel Advisory Board and Division of Personnel	This Issue	This Issue		
1 CSR 20-4.020	Personnel Advisory Board and Division of Personnel	This Issue	This Issue		
1 CSR 50-3.010	Missouri Ethics Commission	This Issue	This Issue		
<b>DEPARTMENT OF AGRICULTURE</b>					
2 CSR 70-11.060	Plant Industries	35 MoReg 721	35 MoReg 756		
2 CSR 80-3.070	State Milk Board		35 MoReg 855		
2 CSR 90	Weights and Measures				35 MoReg 1284
<b>DEPARTMENT OF CONSERVATION</b>					
3 CSR 10-6.505	Conservation Commission		This Issue		
3 CSR 10-6.535	Conservation Commission		This Issue		
3 CSR 10-7.410	Conservation Commission		35 MoReg 857	35 MoReg 1182	
3 CSR 10-7.431	Conservation Commission		35 MoReg 857	35 MoReg 1182	
3 CSR 10-7.440	Conservation Commission		N.A.	35 MoReg 1182	
			N.A.	This Issue	
3 CSR 10-7.455	Conservation Commission				35 MoReg 316
3 CSR 10-11.130	Conservation Commission		35 MoReg 1246		
3 CSR 10-12.110	Conservation Commission		This Issue		
3 CSR 10-12.115	Conservation Commission		This Issue		
3 CSR 10-12.125	Conservation Commission		This Issue		
3 CSR 10-12.140	Conservation Commission		This Issue		
3 CSR 10-12.145	Conservation Commission		This Issue		
3 CSR 10-12.155	Conservation Commission		This Issue		
<b>DEPARTMENT OF ECONOMIC DEVELOPMENT</b>					
4 CSR 170-2.010	Missouri Housing Development Commission		35 MoReg 963R		
4 CSR 170-2.100	Missouri Housing Development Commission		35 MoReg 963		
4 CSR 170-3.010	Missouri Housing Development Commission		35 MoReg 964R		
4 CSR 170-3.100	Missouri Housing Development Commission		35 MoReg 964		
4 CSR 170-3.200	Missouri Housing Development Commission		35 MoReg 964		
4 CSR 170-4.010	Missouri Housing Development Commission		35 MoReg 965R		
4 CSR 170-4.100	Missouri Housing Development Commission		35 MoReg 965		
4 CSR 170-4.200	Missouri Housing Development Commission		35 MoReg 966		
4 CSR 170-4.300	Missouri Housing Development Commission		35 MoReg 966		
4 CSR 170-5.010	Missouri Housing Development Commission		35 MoReg 967R		

Rule Number	Agency	Emergency	Proposed	Order	In Addition
4 CSR 170-5.020	Missouri Housing Development Commission		35 MoReg 968R		
4 CSR 170-5.030	Missouri Housing Development Commission		35 MoReg 968R		
4 CSR 170-5.040	Missouri Housing Development Commission		35 MoReg 968R		
4 CSR 170-5.050	Missouri Housing Development Commission		35 MoReg 969R		
4 CSR 170-5.100	Missouri Housing Development Commission		35 MoReg 969		
4 CSR 170-5.200	Missouri Housing Development Commission		35 MoReg 970		
4 CSR 170-5.300	Missouri Housing Development Commission		35 MoReg 971		
4 CSR 170-5.400	Missouri Housing Development Commission		35 MoReg 971		
4 CSR 170-5.500	Missouri Housing Development Commission		35 MoReg 973		
4 CSR 170-6.010	Missouri Housing Development Commission		35 MoReg 973R		
4 CSR 170-6.100	Missouri Housing Development Commission		35 MoReg 974		
4 CSR 170-6.200	Missouri Housing Development Commission		35 MoReg 975		
4 CSR 240-2.070	Public Service Commission		35 MoReg 682	35 MoReg 1324	
4 CSR 240-3.156	Public Service Commission		35 MoReg 365	35 MoReg 1183	
4 CSR 240-20.100	Public Service Commission		35 MoReg 365	35 MoReg 1183	
<b>DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION</b>					
5 CSR 50-270.010	Division of School Improvement		35 MoReg 210		
			35 MoReg 1019		
5 CSR 50-321.010	Division of School Improvement		35 MoReg 857R		
5 CSR 50-350.040	Division of School Improvement		35 MoReg 1080R		
5 CSR 80-800.200	Teacher Quality and Urban Education		35 MoReg 454	35 MoReg 1132	
5 CSR 80-800.220	Teacher Quality and Urban Education		35 MoReg 454	35 MoReg 1132	
5 CSR 80-800.260	Teacher Quality and Urban Education		35 MoReg 455	35 MoReg 1132	
5 CSR 80-800.270	Teacher Quality and Urban Education		35 MoReg 455	35 MoReg 1132	
5 CSR 80-800.280	Teacher Quality and Urban Education		35 MoReg 456	35 MoReg 1133	
5 CSR 80-800.290	Teacher Quality and Urban Education		35 MoReg 456	35 MoReg 1133	
5 CSR 80-800.350	Teacher Quality and Urban Education		35 MoReg 457	35 MoReg 1133	
5 CSR 80-800.360	Teacher Quality and Urban Education		35 MoReg 458	35 MoReg 1133	
5 CSR 80-800.380	Teacher Quality and Urban Education		35 MoReg 459	35 MoReg 1134	
<b>DEPARTMENT OF HIGHER EDUCATION</b>					
6 CSR 250-11.041	University of Missouri	35 MoReg 161	34 MoReg 2592		
			35 MoReg 757	This Issue	
6 CSR 250-11.042	University of Missouri		34 MoReg 2594		
			35 MoReg 762	This Issue	
<b>DEPARTMENT OF TRANSPORTATION</b>					
7 CSR 10-1.010	Missouri Highways and Transportation Commission		35 MoReg 539	35 MoReg 1211	
7 CSR 10-16.010	Missouri Highways and Transportation Commission		35 MoReg 1173R		
7 CSR 10-16.020	Missouri Highways and Transportation Commission		35 MoReg 1173R		
			35 MoReg 1173		
7 CSR 10-16.025	Missouri Highways and Transportation Commission		35 MoReg 1174		
7 CSR 10-16.030	Missouri Highways and Transportation Commission		35 MoReg 1174R		
7 CSR 10-16.035	Missouri Highways and Transportation Commission		35 MoReg 1175		
7 CSR 10-16.040	Missouri Highways and Transportation Commission		35 MoReg 1178R		
7 CSR 10-16.045	Missouri Highways and Transportation Commission		35 MoReg 1178		
7 CSR 10-16.050	Missouri Highways and Transportation Commission		35 MoReg 1180		
7 CSR 10-25.010	Missouri Highways and Transportation Commission				35 MoReg 1138 35 MoReg 1213 This Issue
7 CSR 60-2.010	Highway Safety Division	35 MoReg 722	35 MoReg 764		
7 CSR 60-2.030	Highway Safety Division	35 MoReg 724	35 MoReg 765		
<b>DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS</b>					
8 CSR 30-3.060	Division of Labor Standards		This Issue		
8 CSR 60-4.040	Missouri Commission on Human Rights		35 MoReg 765	35 MoReg 1277	
8 CSR 60-4.045	Missouri Commission on Human Rights		35 MoReg 765	35 MoReg 1277	
<b>DEPARTMENT OF MENTAL HEALTH</b>					
9 CSR 10-7.090	Director, Department of Mental Health		35 MoReg 645	35 MoReg 1211	
9 CSR 30-4.034	Certification Standards		35 MoReg 935	This Issue	
9 CSR 30-4.035	Certification Standards		35 MoReg 646	35 MoReg 1211	
9 CSR 30-4.042	Certification Standards		35 MoReg 646	35 MoReg 1211	
9 CSR 30-4.045	Certification Standards	35 MoReg 1017	35 MoReg 1022		
<b>DEPARTMENT OF NATURAL RESOURCES</b>					
10 CSR 10-2.070	Air Conservation Commission		35 MoReg 766R	This IssueR	
10 CSR 10-3.090	Air Conservation Commission		35 MoReg 766R	This IssueR	
10 CSR 10-4.070	Air Conservation Commission		35 MoReg 767R	This IssueR	
10 CSR 10-5.160	Air Conservation Commission		35 MoReg 767R	This IssueR	
10 CSR 10-5.480	Air Conservation Commission		35 MoReg 1080		
10 CSR 10-6.020	Air Conservation Commission		35 MoReg 858		
10 CSR 10-6.070	Air Conservation Commission		35 MoReg 1091		
10 CSR 10-6.075	Air Conservation Commission		35 MoReg 1092		
10 CSR 10-6.080	Air Conservation Commission		35 MoReg 1094		
10 CSR 10-6.110	Air Conservation Commission		35 MoReg 461	35 MoReg 1134	
10 CSR 10-6.165	Air Conservation Commission		35 MoReg 768	This Issue	
10 CSR 10-6.400	Air Conservation Commission		35 MoReg 1095		
10 CSR 60-4.025	Safe Drinking Water Commission		35 MoReg 769		
10 CSR 60-5.010	Safe Drinking Water Commission		35 MoReg 778		
10 CSR 60-7.010	Safe Drinking Water Commission		35 MoReg 778		

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10 CSR 60-8.010	Safe Drinking Water Commission		35 MoReg 781		
10 CSR 60-8.030	Safe Drinking Water Commission		35 MoReg 785		
10 CSR 60-9.010	Safe Drinking Water Commission		35 MoReg 793		
10 CSR 70-4.010	Soil and Water Districts Commission		35 MoReg 214R		
			35 MoReg 214		
10 CSR 70-5.010	Soil and Water Districts Commission	34 MoReg 1779	35 MoReg 216R		
			35 MoReg 216		
10 CSR 70-5.040	Soil and Water Districts Commission	34 MoReg 1783	35 MoReg 217R		
			35 MoReg 217		
10 CSR 70-5.050	Soil and Water Districts Commission	34 MoReg 1785	35 MoReg 217R		
			35 MoReg 217		
10 CSR 70-5.060	Soil and Water Districts Commission	34 MoReg 1786	35 MoReg 219R		
			35 MoReg 219		
10 CSR 140-8.010	Division of Energy		35 MoReg 1022		
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11 CSR 45-1.010	Missouri Gaming Commission		35 MoReg 1095		
11 CSR 45-1.090	Missouri Gaming Commission		35 MoReg 1246		
11 CSR 45-4.020	Missouri Gaming Commission		35 MoReg 1247		
11 CSR 45-5.051	Missouri Gaming Commission		35 MoReg 1249		
11 CSR 45-5.075	Missouri Gaming Commission		35 MoReg 1250		
11 CSR 45-5.200	Missouri Gaming Commission		35 MoReg 1250		
11 CSR 45-5.300	Missouri Gaming Commission		35 MoReg 1251		
11 CSR 45-9.113	Missouri Gaming Commission		35 MoReg 1096		
11 CSR 45-9.114	Missouri Gaming Commission		35 MoReg 1098		
11 CSR 45-9.115	Missouri Gaming Commission		35 MoReg 975		
11 CSR 45-9.118	Missouri Gaming Commission		35 MoReg 1098		
11 CSR 45-30.020	Missouri Gaming Commission		35 MoReg 1252		
11 CSR 45-30.025	Missouri Gaming Commission		35 MoReg 1252		
11 CSR 45-30.030	Missouri Gaming Commission		35 MoReg 1253R		
11 CSR 45-30.035	Missouri Gaming Commission		35 MoReg 1253		
11 CSR 45-30.070	Missouri Gaming Commission		35 MoReg 1254		
11 CSR 45-30.175	Missouri Gaming Commission		35 MoReg 1254		
11 CSR 45-30.190	Missouri Gaming Commission	35 MoReg 1241	35 MoReg 1254		
11 CSR 45-30.205	Missouri Gaming Commission		35 MoReg 1255		
11 CSR 45-30.210	Missouri Gaming Commission		35 MoReg 1255		
11 CSR 45-30.225	Missouri Gaming Commission		35 MoReg 1256		
11 CSR 45-30.355	Missouri Gaming Commission		35 MoReg 1256		
11 CSR 45-30.535	Missouri Gaming Commission		35 MoReg 1256		
11 CSR 45-30.540	Missouri Gaming Commission		35 MoReg 1257		
11 CSR 45-30.600	Missouri Gaming Commission		35 MoReg 1257		
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12 CSR 10-2.250	Director of Revenue		35 MoReg 1029		
12 CSR 10-3.052	Director of Revenue		This IssueR		
12 CSR 10-3.112	Director of Revenue		35 MoReg 1257R		
12 CSR 10-3.118	Director of Revenue		35 MoReg 1258R		
12 CSR 10-3.126	Director of Revenue		35 MoReg 1258R		
12 CSR 10-3.130	Director of Revenue		35 MoReg 1258R		
12 CSR 10-3.134	Director of Revenue		35 MoReg 1258R		
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12 CSR 10-3.192	Director of Revenue		35 MoReg 1259R		
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12 CSR 10-3.196	Director of Revenue		35 MoReg 1260R		
12 CSR 10-3.198	Director of Revenue		35 MoReg 1260R		
12 CSR 10-3.204	Director of Revenue		35 MoReg 1260R		
12 CSR 10-3.228	Director of Revenue		35 MoReg 1260R		
12 CSR 10-3.249	Director of Revenue		35 MoReg 575R	35 MoReg 1136R	
12 CSR 10-3.264	Director of Revenue		35 MoReg 1261R		
12 CSR 10-3.266	Director of Revenue		35 MoReg 1261R		
12 CSR 10-3.288	Director of Revenue		35 MoReg 1261R		
12 CSR 10-3.330	Director of Revenue		35 MoReg 1314R		
12 CSR 10-3.333	Director of Revenue		35 MoReg 1314R		
12 CSR 10-3.350	Director of Revenue		35 MoReg 1314R		
12 CSR 10-3.352	Director of Revenue		35 MoReg 1315R		
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12 CSR 10-3.414	Director of Revenue		35 MoReg 1316R		
12 CSR 10-3.426	Director of Revenue		This IssueR		
12 CSR 10-3.428	Director of Revenue		This IssueR		
12 CSR 10-3.431	Director of Revenue		This IssueR		
12 CSR 10-3.434	Director of Revenue		This IssueR		
12 CSR 10-3.436	Director of Revenue		This IssueR		
12 CSR 10-3.438	Director of Revenue		This IssueR		
12 CSR 10-3.443	Director of Revenue		This IssueR		
12 CSR 10-3.444	Director of Revenue		This IssueR		
12 CSR 10-3.446	Director of Revenue		This IssueR		
12 CSR 10-3.490	Director of Revenue		This IssueR		
12 CSR 10-3.496	Director of Revenue		This IssueR		

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12 CSR 10-3.830	Director of Revenue		35 MoReg 575R	35 MoReg 1137R	
12 CSR 10-3.832	Director of Revenue		35 MoReg 575R	35 MoReg 1137R	
12 CSR 10-24.305	Director of Revenue		35 MoReg 1316		
12 CSR 10-24.430	Director of Revenue	35 MoReg 1065	35 MoReg 1100		
12 CSR 10-24.480	Director of Revenue	35 MoReg 1066	35 MoReg 1103		
12 CSR 10-24.485	Director of Revenue	35 MoReg 1066	35 MoReg 1106		
12 CSR 10-26.020	Director of Revenue	35 MoReg 1309	35 MoReg 1317		
12 CSR 10-103.390	Director of Revenue		35 MoReg 685	35 MoReg 1277	
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13 CSR 35-38.010	Children's Division		35 MoReg 576	35 MoReg 1278	
13 CSR 35-38.011	Children's Division		35 MoReg 976		
13 CSR 35-38.021	Children's Division		35 MoReg 976		
13 CSR 35-38.030	Children's Division		35 MoReg 976		
	<i>(Changed from 13 CSR 40-38.010)</i>				
13 CSR 35-38.040	Children's Division		35 MoReg 977		
	<i>(Changed from 13 CSR 40-38.020)</i>				
13 CSR 35-60.070	Children's Division		35 MoReg 582	35 MoReg 1280	
13 CSR 40-38.010	Family Support Division		35 MoReg 976		
	<i>(Changed to 13 CSR 35-38.030)</i>				
13 CSR 40-38.020	Family Support Division		35 MoReg 977		
	<i>(Changed to 13 CSR 35-38.040)</i>				
13 CSR 70-3.020	MO HealthNet Division		35 MoReg 977		
13 CSR 70-3.130	MO HealthNet Division		35 MoReg 1261		
13 CSR 70-3.140	MO HealthNet Division		35 MoReg 980		
13 CSR 70-3.160	MO HealthNet Division		35 MoReg 980		
13 CSR 70-3.200	MO HealthNet Division		35 MoReg 685	This Issue	
13 CSR 70-10.015	MO HealthNet Division	35 MoReg 635	35 MoReg 647	35 MoReg 1137	
13 CSR 70-10.080	MO HealthNet Division		35 MoReg 652	35 MoReg 1137	
13 CSR 70-15.010	MO HealthNet Division	35 MoReg 1067	35 MoReg 1108		
13 CSR 70-15.110	MO HealthNet Division	35 MoReg 1070	35 MoReg 1111		
13 CSR 70-20.320	MO HealthNet Division	35 MoReg 1072	35 MoReg 1114		
13 CSR 70-90.010	MO HealthNet Division		35 MoReg 688	This Issue	
13 CSR 70-91.030	MO HealthNet Division		35 MoReg 1029R		
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15 CSR 30-45.040	Secretary of State		35 MoReg 691	35 MoReg 1211	
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16 CSR 10-4.010	The Public School Retirement System of Missouri		35 MoReg 1262		
16 CSR 10-5.010	The Public School Retirement System of Missouri		35 MoReg 1263		
16 CSR 10-6.040	The Public School Retirement System of Missouri		35 MoReg 1263		
16 CSR 50-2.010	The County Employees' Retirement Fund		35 MoReg 1029		
16 CSR 50-2.020	The County Employees' Retirement Fund		35 MoReg 1030		
16 CSR 50-2.030	The County Employees' Retirement Fund		35 MoReg 1030		
16 CSR 50-2.050	The County Employees' Retirement Fund		35 MoReg 1031		
16 CSR 50-2.110	The County Employees' Retirement Fund		35 MoReg 1031		
16 CSR 50-3.010	The County Employees' Retirement Fund		35 MoReg 1031		
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17 CSR 20-3.015	St. Louis Board of Police Commissioners		35 MoReg 862	35 MoReg 1326	
17 CSR 20-3.025	St. Louis Board of Police Commissioners		35 MoReg 863	35 MoReg 1326	
17 CSR 20-3.035	St. Louis Board of Police Commissioners		35 MoReg 863	35 MoReg 1326	
17 CSR 20-3.045	St. Louis Board of Police Commissioners		35 MoReg 864	35 MoReg 1326	
17 CSR 20-3.055	St. Louis Board of Police Commissioners		35 MoReg 864	35 MoReg 1327	
17 CSR 20-3.065	St. Louis Board of Police Commissioners		35 MoReg 865	35 MoReg 1327	
17 CSR 20-3.075	St. Louis Board of Police Commissioners		35 MoReg 865	35 MoReg 1327	
17 CSR 20-3.085	St. Louis Board of Police Commissioners		35 MoReg 866	35 MoReg 1327	
17 CSR 20-3.095	St. Louis Board of Police Commissioners		35 MoReg 866	35 MoReg 1327	
17 CSR 20-3.105	St. Louis Board of Police Commissioners		35 MoReg 866	35 MoReg 1327	
17 CSR 20-3.115	St. Louis Board of Police Commissioners		35 MoReg 867	35 MoReg 1328	
17 CSR 20-3.125	St. Louis Board of Police Commissioners		35 MoReg 867	35 MoReg 1328	
17 CSR 20-3.135	St. Louis Board of Police Commissioners		35 MoReg 868	35 MoReg 1328	
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18 CSR 10-2.010	Office of State Public Defender		35 MoReg 1180		
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19 CSR 60-50	Missouri Health Facilities Review Committee				35 MoReg 1139 35 MoReg 1284 35 MoReg 1329 This Issue
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20 CSR	Construction Claims Binding Arbitration Cap				33 MoReg 150 33 MoReg 2446 35 MoReg 654
20 CSR	Medical Malpractice				31 MoReg 616 32 MoReg 545
20 CSR	Sovereign Immunity Limits				33 MoReg 150 33 MoReg 2446 35 MoReg 318

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20 CSR	State Legal Expense Fund Cap				33 MoReg 150 33 MoReg 2446 35 MoReg 654
20 CSR 500-2.300	Property and Casualty		35 MoReg 691	35 MoReg 1283	
20 CSR 500-10.200	Property and Casualty		35 MoReg 793		
20 CSR 1140-30.010	Division of Finance	35 MoReg 725R	35 MoReg 794R		
20 CSR 1140-30.030	Division of Finance	35 MoReg 727R	35 MoReg 794R		
20 CSR 1140-30.040	Division of Finance	35 MoReg 728R	35 MoReg 794R		
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20 CSR 1140-30.090	Division of Finance	35 MoReg 732R	35 MoReg 796R		
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20 CSR 1140-30.110	Division of Finance	35 MoReg 734R	35 MoReg 797R		
20 CSR 1140-30.120	Division of Finance	35 MoReg 736R	35 MoReg 797R		
20 CSR 1140-30.200	Division of Finance	35 MoReg 737	35 MoReg 797		
20 CSR 1140-30.210	Division of Finance	35 MoReg 738	35 MoReg 798		
20 CSR 1140-30.220	Division of Finance	35 MoReg 739	35 MoReg 800		
20 CSR 1140-30.230	Division of Finance	35 MoReg 741	35 MoReg 800		
20 CSR 1140-30.240	Division of Finance	35 MoReg 742	35 MoReg 800		
20 CSR 1140-30.250	Division of Finance	35 MoReg 743	35 MoReg 803		
20 CSR 1140-30.260	Division of Finance	35 MoReg 744	35 MoReg 803		
20 CSR 1140-30.270	Division of Finance	35 MoReg 745	35 MoReg 803		
20 CSR 1140-30.280	Division of Finance	35 MoReg 747	35 MoReg 804		
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20 CSR 1140-30.320	Division of Finance	35 MoReg 752	35 MoReg 810		
20 CSR 1140-31.010	Division of Finance		35 MoReg 810		
20 CSR 1140-31.020	Division of Finance		35 MoReg 810		
20 CSR 2030-6.015	Missouri Board for Architects, Professional Engineers, Professional Land Surveyors, and Landscape Architects	35 MoReg 1242	35 MoReg 1264		
20 CSR 2110-2.240	Missouri Dental Board		35 MoReg 1267		
20 CSR 2120-2.100	State Board of Embalmers and Funeral Directors	35 MoReg 1242	35 MoReg 1267		
20 CSR 2120-2.105	State Board of Embalmers and Funeral Directors		35 MoReg 1271R		
20 CSR 2150-5.100	State Board of Registration for the Healing Arts		35 MoReg 869R 35 MoReg 870	This IssueR This Issue	
20 CSR 2200-4.100	State Board of Nursing		35 MoReg 872R 35 MoReg 872	This IssueR This Issue	
20 CSR 2200-4.200	State Board of Nursing		35 MoReg 879R 35 MoReg 879	This IssueR This Issue	
20 CSR 2205-5.010	Missouri Board of Occupational Therapy		35 MoReg 1271R 35 MoReg 1271		
20 CSR 2210-2.030	State Board of Optometry		This Issue		
20 CSR 2263-2.031	State Committee for Social Workers	35 MoReg 1310	35 MoReg 1320		
20 CSR 2263-2.045	State Committee for Social Workers	35 MoReg 1311	35 MoReg 1320		
20 CSR 2263-2.050	State Committee for Social Workers	35 MoReg 1312	35 MoReg 1323		
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22 CSR 10-2.070	Health Care Plan		35 MoReg 1124R 35 MoReg 1124		
22 CSR 10-3.070	Health Care Plan		35 MoReg 1129R 35 MoReg 1129		

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1 CSR 15-3.350	Complaints . . . . .	This Issue . . . . .	Sept. 9, 2010 . . . . .March 7, 2011
1 CSR 15-3.380	Answers and Other Responsive Pleadings . . . . .	This Issue . . . . .	Sept. 9, 2010 . . . . .March 7, 2011
1 CSR 15-3.436	Involuntary Dismissal . . . . .	This Issue . . . . .	Sept. 9, 2010 . . . . .March 7, 2011
1 CSR 15-3.446	Decision on the Complaint without a Hearing . . . . .	This Issue . . . . .	Sept. 9, 2010 . . . . .March 7, 2011
1 CSR 15-3.490	Hearings on Complaints; Default . . . . .	This Issue . . . . .	Sept. 9, 2010 . . . . .March 7, 2011
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1 CSR 20-1.010	General Organization . . . . .	This Issue . . . . .	Sept. 7, 2010 . . . . .March 5, 2011
1 CSR 20-1.030	Personnel Rules . . . . .	This Issue . . . . .	Sept. 7, 2010 . . . . .March 5, 2011
1 CSR 20-2.015	Broad Classification Bands for Managers . . . . .	This Issue . . . . .	Sept. 7, 2010 . . . . .March 5, 2011
1 CSR 20-3.010	Examinations . . . . .	This Issue . . . . .	Sept. 7, 2010 . . . . .March 5, 2011
1 CSR 20-3.020	Registers . . . . .	This Issue . . . . .	Sept. 7, 2010 . . . . .March 5, 2011
1 CSR 20-3.030	Certification and Appointment . . . . .	This Issue . . . . .	Sept. 7, 2010 . . . . .March 5, 2011
1 CSR 20-3.070	Separation, Suspension, and Demotion . . . . .	This Issue . . . . .	Sept. 7, 2010 . . . . .March 5, 2011
1 CSR 20-3.080	General Provisions and Prohibitions . . . . .	This Issue . . . . .	Sept. 7, 2010 . . . . .March 5, 2011
1 CSR 20-4.010	Appeals . . . . .	This Issue . . . . .	Sept. 7, 2010 . . . . .March 5, 2011
1 CSR 20-4.020	Grievance Procedures . . . . .	This Issue . . . . .	Sept. 7, 2010 . . . . .March 5, 2011
<b>Missouri Ethics Commission</b>			
1 CSR 50-3.010	Late Fee . . . . .	This Issue . . . . .	Sept. 9, 2010 . . . . .March 7, 2011
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<b>Plant Industries</b>			
2 CSR 70-11.060	Thousand Cankers Disease of Walnut Exterior Quarantine . . . . .	35 MoReg 721 . . . . .	April 12, 2010 . . . . .Jan. 19, 2011
<b>Department of Transportation</b>			
<b>Highway Safety Division</b>			
7 CSR 60-2.010	Definitions . . . . .	35 MoReg 722 . . . . .	April 18, 2010 . . . . .Nov. 30, 2010
7 CSR 60-2.030	Standards and Specifications . . . . .	35 MoReg 724 . . . . .	April 18, 2010 . . . . .Nov. 30, 2010
<b>Department of Mental Health</b>			
<b>Certification Standards</b>			
9 CSR 30-4.045	Intensive Community Psychiatric Rehabilitation . . . . .	35 MoReg 1017 . . . . .	July 1, 2010 . . . . .Feb. 24, 2011
<b>Department of Public Safety</b>			
<b>Missouri Gaming Commission</b>			
11 CSR 45-30.190	Rules of Play . . . . .	35 MoReg 1241 . . . . .	Aug. 28, 2010 . . . . .Feb. 23, 2011
<b>Department of Revenue</b>			
<b>Director of Revenue</b>			
12 CSR 10-24.430	Back of Driver License, Permits and Nondriver License . . . . .	35 MoReg 1065 . . . . .	July 1, 2010 . . . . .Dec. 28, 2010
12 CSR 10-24.480	Boater Identification Indicator on Driver or Nondriver License . . . . .	35 MoReg 1066 . . . . .	July 1, 2010 . . . . .Dec. 28, 2010
12 CSR 10-24.485	Permanent Disability Indicator on Driver or Nondriver License . . . . .	35 MoReg 1066 . . . . .	July 4, 2010 . . . . .Dec. 31, 2010
12 CSR 10-26.020	License Requirements for Auctions, Dealers, Franchisors, and Manufacturers . . . . .	35 MoReg 1309 . . . . .	Aug. 28, 2010 . . . . .Feb. 24, 2011
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<b>MO HealthNet Division</b>			
13 CSR 70-10.015	Prospective Reimbursement Plan for Nursing Facility Services . . . . .	35 MoReg 635 . . . . .	April 1, 2010 . . . . .Sept. 27, 2010
13 CSR 70-15.010	Inpatient Hospital Services Reimbursement Plan; Outpatient Hospital Services Reimbursement Methodology . . . . .	35 MoReg 1067 . . . . .	July 1, 2010 . . . . .Dec. 27, 2010
13 CSR 70-15.110	Federal Reimbursement Allowance (FRA) . . . . .	35 MoReg 1070 . . . . .	July 1, 2010 . . . . .Dec. 27, 2010
13 CSR 70-15.160	Prospective Outpatient Hospital Services Reimbursement Methodology . . . . .	Nov. 1, 2010 Issue . . . . .	Oct. 1, 2010 . . . . .March 29, 2011
13 CSR 70-20.320	Pharmacy Reimbursement Allowance . . . . .	35 MoReg 1072 . . . . .	July 1, 2010 . . . . .Dec. 27, 2010

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19 CSR 30-1.074 Dispensing Without a Prescription . . . . .	.35 MoReg 1072 . . .	Sept. 28, 2010 . . .	March 26, 2011
<b>Department of Insurance, Financial Institutions and Professional Registration</b>			
<b>Division of Finance</b>			
20 CSR 1140-30.010 Definitions . . . . .	.35 MoReg 725 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.030 Licensing . . . . .	.35 MoReg 727 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.040 Operations and Supervision . . . . .	.35 MoReg 728 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.050 Annual Report of Mortgage Brokerage Activity and Mortgage Servicing Activity . . . . .	.35 MoReg 729 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.070 Advertising . . . . .	.35 MoReg 730 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.080 Loan Brokerage Practices . . . . .	.35 MoReg 731 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.090 Loan Application Practices . . . . .	.35 MoReg 732 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.100 General Practices . . . . .	.35 MoReg 733 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.110 Commitment and Closing Practices . . . . .	.35 MoReg 734 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.120 Exemption Guidelines . . . . .	.35 MoReg 736 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
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20 CSR 1140-30.210 Licensing of Mortgage Loan Originators . . . . .	.35 MoReg 738 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.220 Self-Reporting Requirements . . . . .	.35 MoReg 739 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.230 Challenges to Information Submitted to NMLSR . . . . .	.35 MoReg 741 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.240 Operations and Supervision of Residential Mortgage Loan Brokers . . . . .	.35 MoReg 742 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.250 Change in Business Activities . . . . .	.35 MoReg 743 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.260 Full-Service Office Requirement . . . . .	.35 MoReg 744 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.270 Maintenance of Records . . . . .	.35 MoReg 745 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.280 Authorized Advance Fees and Escrow Requirements . . . . .	.35 MoReg 747 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.290 In-State Office Waiver For Services . . . . .	.35 MoReg 748 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.300 Annual Report . . . . .	.35 MoReg 749 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.310 Bonding Requirements . . . . .	.35 MoReg 750 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
20 CSR 1140-30.320 Exempt List . . . . .	.35 MoReg 752 . . .	April 18, 2009 . . . . .	Jan. 26, 2011
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20 CSR 2030-6.015 Application, Renewal, Reinstatement, Relicensure, and Miscellaneous Fees . . . . .	.35 MoReg 1242 . . .	July 30, 2010 . . . . .	Feb. 24, 2011
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20 CSR 2120-2.100 Fees . . . . .	.35 MoReg 1242 . . .	Aug. 5, 2010 . . . . .	Feb. 24, 2011
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20 CSR 2220-2.005 Definitions . . . . .	Next Issue . . . . .	Sept. 13, 2010 . . .	March 11, 2011
<b>State Committee for Social Workers</b>			
20 CSR 2263-2.031 Acceptable Supervisors and Supervisor Responsibilities . . . . .	.35 MoReg 1310 . . .	Aug. 28, 2010 . . . . .	Feb. 24, 2011
20 CSR 2263-2.045 Provisional Licenses . . . . .	.35 MoReg 1311 . . .	Aug. 28, 2010 . . . . .	Feb. 24, 2011
20 CSR 2263-2.050 Application for Licensure as a Social Worker . . . . .	.35 MoReg 1312 . . .	Aug. 28, 2010 . . . . .	Feb. 24, 2011



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<b>10-25</b>	Extends the declaration of emergency contained in Executive Order 10-22 for the purpose of protecting the safety and welfare of our fellow Missourians	July 20, 2010	35 MoReg 1244
<b>10-24</b>	Creates the Code of Fair Practices for the Executive Branch of State Government and supersedes paragraph one of Executive Order 05-30	July 9, 2010	35 MoReg 1167
<b>Emergency Declaration</b>	Proclaims that an emergency exists concerning the damage and structural integrity of the U.S. Route 24 bridge over the Grand River	July 2, 2010	35 MoReg 1165
<b>10-23</b>	Activates the state militia in response to severe weather that began on June 12	June 23, 2010	35 MoReg 1078
<b>10-22</b>	Declares a state of emergency and directs the Missouri State Emergency Operations Plan be activated due to severe weather that began on June 12	June 21, 2010	35 MoReg 1076
<b>10-21</b>	Activates the Missouri State Emergency Operations Center	June 15, 2010	35 MoReg 1018
<b>10-20</b>	Establishes the Missouri Civil War Sesquicentennial Commission	April 2, 2010	35 MoReg 754
<b>10-19</b>	Amends Executive Order 09-17 to give the commissioner of the Office of Administration supervisory authority over the Transform Missouri Project	March 2, 2010	35 MoReg 637
<b>10-18</b>	Establishes the Children in Nature Challenge to challenge Missouri communities to take action to enhance children's education about nature, and to increase children's opportunities to personally experience nature and the outdoors	Feb. 26, 2010	35 MoReg 573
<b>10-17</b>	Establishes a Missouri Emancipation Day Commission to promote, consider, and recommend appropriate activities for the annual recognition and celebration of Emancipation Day	Feb. 2, 2010	35 MoReg 525
<b>10-16</b>	Transfers the scholarship portion of the A+ Schools Program from the Missouri Department of Elementary and Secondary Education to the Missouri Department of Higher Education	Jan. 29, 2010	35 MoReg 447
<b>10-15</b>	Transfers the Breath Alcohol Program from the Missouri Department of Transportation to the Missouri Department of Health and Senior Services	Jan. 29, 2010	35 MoReg 445
<b>10-14</b>	Designates members of the governor's staff to have supervisory authority over certain departments, divisions, and agencies	Jan. 29, 2010	35 MoReg 443
<b>10-13</b>	Directs the Department of Social Services to disband the Missouri Task Force on Youth Aging Out of Foster Care	Jan. 15, 2010	35 MoReg 364
<b>10-12</b>	Rescinds Executive Orders 98-14, 95-21, 95-17, and 94-19 and terminates the Governor's Commission on Driving While Intoxicated and Impaired Driving	Jan. 15, 2010	35 MoReg 363
<b>10-11</b>	Rescinds Executive Order 05-41 and terminates the Governor's Advisory Council for Veterans Affairs and assigns its duties to the Missouri Veterans Commission	Jan. 15, 2010	35 MoReg 362
<b>10-10</b>	Rescinds Executive Order 01-08 and terminates the Personal Independence Commission and assigns its duties to the Governor's Council on Disability	Jan. 15, 2010	35 MoReg 361
<b>10-09</b>	Rescinds Executive Orders 95-10, 96-11, and 98-13 and terminates the Governor's Council on AIDS and transfers their duties to the Statewide HIV/STD Prevention Community Planning Group within the Department of Health and Senior Services	Jan. 15, 2010	35 MoReg 360
<b>10-08</b>	Rescinds Executive Order 04-07 and terminates the Missouri Commission on Patient Safety	Jan. 15, 2010	35 MoReg 358
<b>10-07</b>	Rescinds Executive Order 01-16 and terminates the Missouri Commission on Intergovernmental Cooperation	Jan. 15, 2010	35 MoReg 357
<b>10-06</b>	Rescinds Executive Order 05-13 and terminates the Governor's Advisory Council on Plant Biotechnology and assigns its duties to the Missouri Technology Corporation	Jan. 15, 2010	35 MoReg 356
<b>10-05</b>	Rescinds Executive Order 95-28 and terminates the Missouri Board of Geographic Names	Jan. 15, 2010	35 MoReg 355
<b>10-04</b>	Rescinds Executive Order 03-10 and terminates the Missouri Energy Policy Council	Jan. 15, 2010	35 MoReg 354
<b>10-03</b>	Rescinds Executive Order 03-01 and terminates the Missouri Lewis and Clark Bicentennial Commission	Jan. 15, 2010	35 MoReg 353
<b>10-02</b>	Rescinds Executive Order 07-29 and terminates the Governor's Advisory Council on Aging and assigns its duties to the State Board of Senior Services	Jan. 15, 2010	35 MoReg 352
<b>10-01</b>	Rescinds Executive Order 01-15 and terminates the Missouri Commission on Total Compensation	Jan. 15, 2010	35 MoReg 351

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<b>09-29</b>	Outlines the suspension of federal commercial motor vehicle and driver laws during emergency declarations. Executive Orders 07-01 and 08-40 are superceded and replaced on February 1, 2010	December 31, 2009	35 MoReg 205
<b>09-28</b>	Establishes the post of Missouri Poet Laureate. Executive order 08-01 is superceded and replaced	December 24, 2009	35 MoReg 203
<b>09-27</b>	Creates the Missouri Office of Health Information Technology, referred to as MO-HITECH. Executive Order 06-03 is rescinded	November 4, 2009	34 MoReg 2587
<b>09-26</b>	Advises that state offices will be closed November 27, 2009	October 30, 2009	34 MoReg 2466
<b>09-25</b>	Creates the governor's faith-based and community service partnership for disaster recovery	September 21, 2009	34 MoReg 2361
<b>09-24</b>	Creates the prompt pay for a healthy Missouri project	September 11, 2009	34 MoReg 2313
<b>09-23</b>	Designates members of the governor's staff as having supervisory authority over departments, divisions, or agencies	September 1, 2009	34 MoReg 2139
<b>09-22</b>	Appoints the Home Building and Residential Energy Efficiency Advisory panel to issue recommendations on energy efficiency measures for the home building sector and consumers	August 20, 2009	34 MoReg 2137
<b>09-21</b>	Declares a state of emergency exists in the state of Missouri and directs that Missouri State Emergency Operations Plan remain activated	May 14, 2009	34 MoReg 1332
<b>09-20</b>	Gives the director of the Missouri Department of Natural Resources full discretionary authority to temporarily waive or suspend the operation of any statutory or administrative rule or regulation currently in place under his purview in order to best serve the interests of the public health and safety during the period of the emergency and the subsequent recovery period	May 12, 2009	34 MoReg 1331
<b>09-19</b>	Declares a state of emergency exists in the state of Missouri and directs that the Missouri State Emergency Operations Plan be activated	May 8, 2009	34 MoReg 1329
<b>09-18</b>	Orders that all state agencies whose building management falls under the direction of the Office of Administration shall institute policies that will result in reductions of energy consumption of two percent per year for each of the next ten years	April 23, 2009	34 MoReg 1273
<b>09-17</b>	Creates the Transform Missouri Project as well as the Taxpayer Accountability, Compliance, and Transparency Unit, and rescinds Executive Order 09-12	March 31, 2009	34 MoReg 828
<b>09-16</b>	Directs the Department of Corrections to lead a permanent, interagency steering team for the Missouri Reentry Process	March 26, 2009	34 MoReg 826
<b>09-15</b>	Expands the Missouri Automotive Jobs Task Force to consist of 18 members	March 24, 2009	34 MoReg 824
<b>09-14</b>	Designates members of the governor's staff as having supervisory authority over departments, divisions, or agencies	March 5, 2009	34 MoReg 761
<b>09-13</b>	Extends Executive Order 09-04 and Executive Order 09-07 through March 31, 2009	February 25, 2009	34 MoReg 657
<b>09-12</b>	Creates and establishes the Transform Missouri Initiative	February 20, 2009	34 MoReg 655
<b>09-11</b>	Orders the Department of Health and Senior Services and the Department of Social Services to transfer the Blindness Education, Screening and Treatment Program (BEST) to the Department of Social Services	February 4, 2009	34 MoReg 590
<b>09-10</b>	Orders the Department of Elementary and Secondary Education and the Department of Economic Development to transfer the Missouri Customized Training Program to the Department of Economic Development	February 4, 2009	34 MoReg 588
<b>09-09</b>	Transfers the various scholarship programs under the Departments of Agriculture, Elementary and Secondary Education, Higher Education, and Natural Resources to the Department of Higher Education	February 4, 2009	34 MoReg 585
<b>09-08</b>	Designates members of the governor's staff as having supervisory authority over departments, divisions, or agencies	February 2, 2009	34 MoReg 366
<b>09-07</b>	Gives the director of the Missouri Department of Natural Resources the authority to temporarily suspend regulations in the aftermath of severe weather that began on January 26	January 30, 2009	34 MoReg 364
<b>09-06</b>	Activates the state militia in response to the aftermath of severe storms that began on January 26	January 28, 2009	34 MoReg 362
<b>09-05</b>	Establishes a Complete Count Committee for the 2010 Census	January 27, 2009	34 MoReg 359
<b>09-04</b>	Declares a state of emergency and activates the Missouri State Emergency Operations Plan	January 26, 2009	34 MoReg 357
<b>09-03</b>	Directs the Missouri Department of Economic Development, working with the Missouri Development Finance Board, to create a pool of funds designated for low-interest and no-interest direct loans for small business	January 13, 2009	34 MoReg 281

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**09-02** Creates the Economic Stimulus Coordination Council

January 13, 2009

34 MoReg 279

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**09-01** Creates the Missouri Automotive Jobs Task Force

January 13, 2009

34 MoReg 277

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## **Rulemaking 1-2-3**

Our drafting and style manual, Rulemaking 1-2-3, has undergone a few changes.

The updated rulemaking manual, in its entirety, can be found on our website.

For those who currently have a hard copy of the rulemaking manual, an update that contains the changed pages is available on our website. Please print the update and replace the necessary pages in your current manual.

Please visit [www.sos.mo.gov/adrules/downloads.asp](http://www.sos.mo.gov/adrules/downloads.asp) for links to the update and the current rulemaking manual.